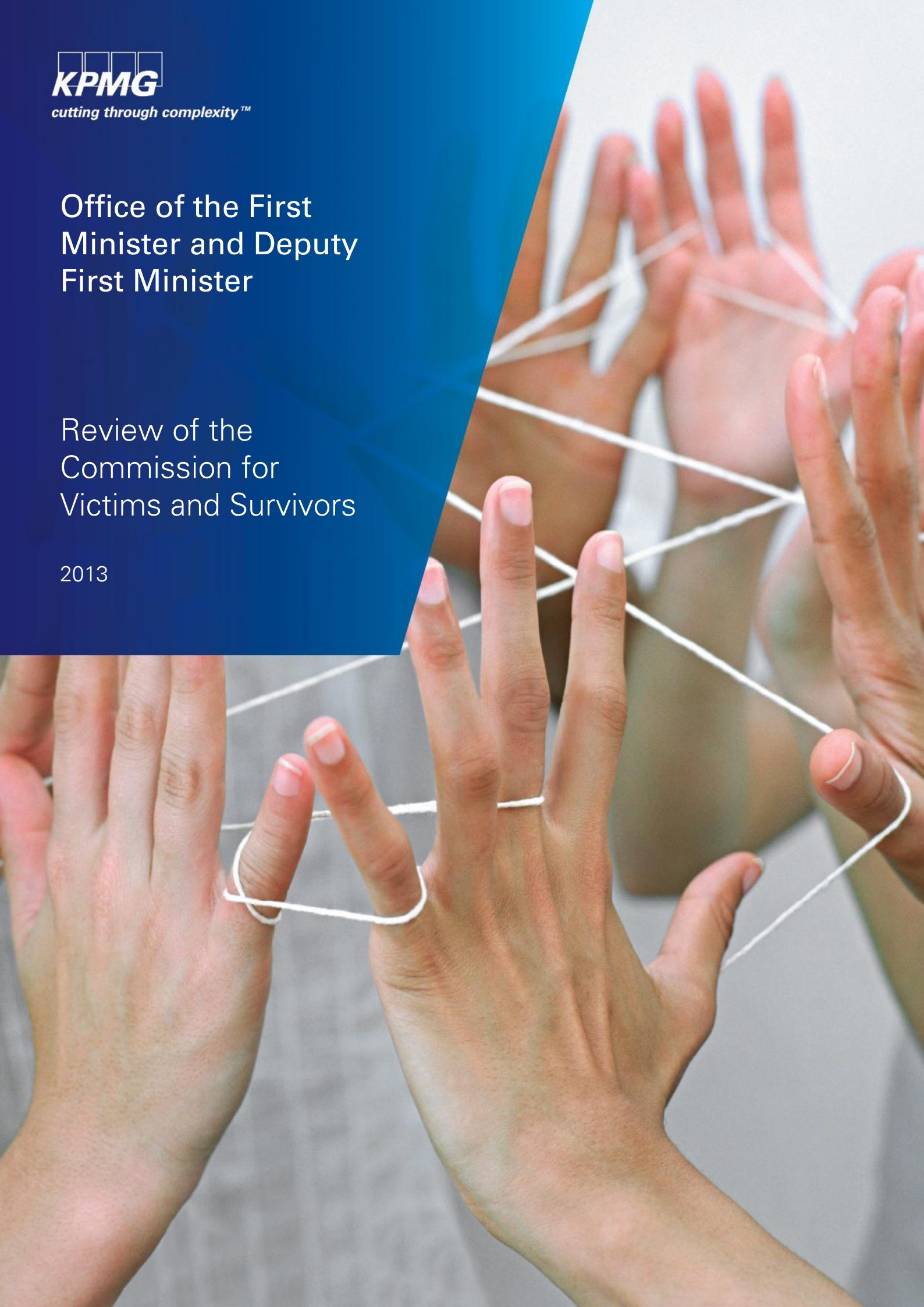


Office of the First Minister and Deputy First Minister

Review of the Commission for Victims and Survivors

2013



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Glossary

AO	Accounting Officer
ARC	Audit and Risk Committee
CNA	Comprehensive Needs Analysis
CRC	Community Relations Council
CSR	Comprehensive Spending Review
CVS	Commission for Victims and Survivors
DFP	Department of Finance and Personnel
DOJ	Department of Justice
EFQM	European Foundation Quality Model
GANI	Government Accounting Northern Ireland
HOCS	Head of the Civil Service
IIP	Investors in People
KPIs	Key Performance Indicators
MOU	Memorandum of Understanding
MSFM	Management Statement and Financial Memorandum
NDPB	Non-Departmental Public Body
NGO	Non-Governmental Organisation
NICCY	Commissioner for Children and Young People
NIMF	Northern Ireland Memorial Fund
NIO	Northern Ireland Office
OFMDFM	Office of the First Minister and Deputy First Minister
PDP	Personal Development Plan
PID	Project Initiation Document
PPA	Personal Performance Agreement
PPP	Public private partnership
PSA	Public Service Agreement
PSfG	Professional Skills for Government
SEUPB	Special European Union Programmes Body
SRO	Senior Responsible Officer
SSI	Social Services Inspectorate
TAPs	Trauma Advisory Panels
VFM	Value for Money

1 Introduction

1.1 Introduction

The Office of the First minister and Deputy First Minister (OFMDMF) appointed KPMG to undertake a review of the Commission for Victims and Survivors (the Commission, the CVS), a Non-Departmental Public Body (NDPB) sponsored by OFMDMF.

The requirement of the review was to determine the efficiency and effectiveness of the operation of the Commission for Victims and Survivors for Northern Ireland. This is in line with the requirement of the organisation's Management Statement and Financial Memorandum (MSFM), which is based on Treasury Guidance, to commission a comprehensive review of the Commission at least once every three years. This is the first review to be carried out on the Commission.

1.2 Term of Reference

The agreed terms of reference for this review focussed on the following key areas:

Terms of Reference

Delivery of Objectives

An assessment of how the Commission contributes to the delivery of the Government and wider Departmental objectives with regard to The Victims and Survivors (Northern Ireland) Order 2006.

Relationships

An examination of the relationships the Commission has with the following:

- Victims and Survivors
- OFMDMF, Department of Finance and Personnel (DFP) and Ministers
- Non-Governmental Organisations (NGOs)
- Statutory sector
- The Voluntary and Community sector.

Past Performance

An assessment of how effectively the Commission has:

- Performed against aims, work programme and objectives as defined in the Corporate Plan/Business Plan.
- Made significant changes to promoting the interests of victims and survivors here.
- The review will examine and record any significant achievements in its six statutory duties.
- Taken due account of the resource base and staffing structure and consider whether or not the financial and staffing resources have been utilised fully and have included

Terms of Reference

the achievement of value for money.

- Carried out current corporate governance procedures and reporting methods. The review will look at the need for possible changes.
- Worked with others to deliver the objectives contained in the Commission's approved Corporate and Business Plans.
- Established relationships with its parent/sponsor Department and Ministers.

Responsiveness

An assessment of what the Commission's customers, stakeholders and staff think about its role and performance with regard to:

- Responsiveness to their needs/requirements.
- The extent to which the Commission has maintained the focus of the remit of the office as outlined in the Victims and Survivors (Northern Ireland) order 2006.

Good Practice

- An assessment of any examples of good practice in the delivery of its functions.
- Evidence of the systemic use of quality schemes such as EFQM Excellence Model®, Charter Mark and Investors in People.

Delivery Mechanisms

- An assessment of how the Commission's services should be delivered in the future.
- How the Commission's structures contributed to the delivery of its statutory role and corporate objectives.
- The organisational option best suited to delivering responsive, efficient and quality services in the future.

1.3 Methodology

The methodology was based on the following approach:

1.3.1 Project Initiation

KPMG held a Project Initiation Meeting with the Department's Project Steering Group to discuss the scope and detail of the review.

Following the Project Initiation Meeting, KPMG developed a detailed Project Initiation Document (PID). This contained a detailed project plan including milestones and reporting mechanisms.

1.3.2 Strategic Context

KPMG undertook a review of key strategic documents which included the legislation which established the Commission and OFMDFM's Strategy for Victims and Survivors.

In addition, in order to place this report, its key findings and future considerations in context, KPMG looked at the strategic and external environmental context in which the Commission operated at the time of the review.

1.3.3 Review of Performance

KPMG undertook a review of various reports, performance and management information pertaining to the Commission including corporate plans, business plans and work programme and progress reports.

1.3.4 Review of Financial Arrangements and Controls and Governance

KPMG conducted a desk-based review of the financial arrangements, controls and effectiveness of the Commission. This was supplemented by consultation with Commission staff. In addition, consultation was undertaken with representatives from both the Commission and OFMDFM in order to ensure that both parties were satisfied with the governance arrangements and financial framework which operates between them.

1.3.5 Consultation

An extensive consultation exercise was undertaken.

This included meetings with the following key groups:

- The three Commissioners, Commission staff and members of the Forum
- Representatives from OFMDFM
- Special Advisers to OFMDFM Ministers
- Representatives from key funding bodies: Community Relations Council (CRC), Northern Ireland Memorial Fund (NIMF) and the Special European Union Programmes Body (SEUPB)
- Other stakeholders who came forward. This included 50 consultees comprising a mix of representative from victims and survivors organisations and/or individual victims and survivors who contributed to this review. In addition, 10 written responses were received.

In order to make this review as inclusive as possible, and to consult as broadly as possible, KPMG undertook the following tasks:

- An announcement of the review was contained in an NIMF newsletter distributed in January 2011 to all those individuals on the NIMF database (this was those people in receipt of NIMF grants).
- Contact was made via a detailed letter with over 175 organisations and this was followed up with a reminder letter or email. This informed recipients about the review and offered the following options to contribute:
 - Posting comments and views on a secure web link
 - Writing to KPMG with comments and views
 - Attending one of four regional meetings

- Or contacting KPMG directly.
- Details of the review, its terms of reference and ways to contribute were posted on the websites of the Commission, OFMDFM and KPMG.
- A public advertisement was placed in the Belfast Telegraph to inform readers about the review and the ways to contribute and to attempt to access hidden victims and survivors.

1.3.6 Analysis and Reporting

All information gathered was analysed in order to consider the efficiency and effectiveness of the Commission. This report summarises the findings and recommendations from all phases of the review and was subsequently updated and finalised to take account of a factual accuracy check and comments received from the Commission. It is noted that the terms of reference and timeframe covered in this report was for the first three years of the Commission and thus does not reflect the full four-year term of the appointed Commissioners.

1.4 Report structure

Section	Content
Section 2	The Commission for Victims and Survivors
Section 3	Context for the Review
Section 4	Review of Corporate Performance
Section 5	Governance and Financial Controls
Section 6	Consultation Findings
Section 7	Conclusions
Section 8	Requirement and Future Delivery

1.5 Acknowledgements

KPMG would like to thank those who have contributed to this report, particularly the Commissioners and their staff and Forum members as well as other stakeholders who included representatives from groups and organisations as well as individual victims and survivors.

2 The Commission for Victims and Survivors

2.1 Introduction

This section sets out an overview of the Commission and its principal aim and duties, its structure and staffing resources. It then presents a high-level overview of OFMDFM.

2.2 The Commission for Victims and Survivors

The Commission for Victims and Survivors was created in May 2008, following Assembly legislation, and four Commissioners were appointed in June 2008¹.

The principal aim of the Commission is to promote the interests of victims and survivors of the conflict.

The Commission has six statutory duties:

- To promote awareness of matters relating to the interests of victims and survivors and the need to safeguard those interests.
- To keep under review the adequacy and effectiveness of law and practice affecting the interests of victims and survivors.
- To keep under review the adequacy and effectiveness of services provided for victims and survivors.
- To provide advice to government on matters affecting victims and survivors.
- To ensure that the views of victims and survivors are sought by the Commission in carrying out its work.
- To make arrangements for a forum for consultation with victims and survivors.

The 2008 legislation established the Commission as a body corporate NDPB sponsored by OFMDFM and the relationship between OFMDFM and the Commission is set out in a Management Statement and Financial Memorandum (MSFM).

2.2.1 The Victims and Survivors (Northern Ireland) Order 2006 and The Commission for Victims and Survivors Act (Northern Ireland) 2008

As noted, the Commission for Victims and Survivors was established by the Commission for Victims and Survivors Act (Northern Ireland) 2008.

¹ Initially, four Commissioners were appointed but one resigned in February 2010 and a decision was taken not to replace this Commissioner pending the outcome of the planned review in 2011.

This replaced/amended the Victims and Survivors (Northern Ireland) Order 2006 which had put in place a Commissioner for Victims and Survivors for Northern Ireland, with a Commission for Victims and Survivors for Northern Ireland to be appointed by the First Minister and Deputy First Minister.

However, the overall duties remained the same, and included promoting awareness of the interests of victims and survivors, reviewing the adequacy of services provided for victims and survivors and to make arrangements for a forum for consultation with victims and survivors.

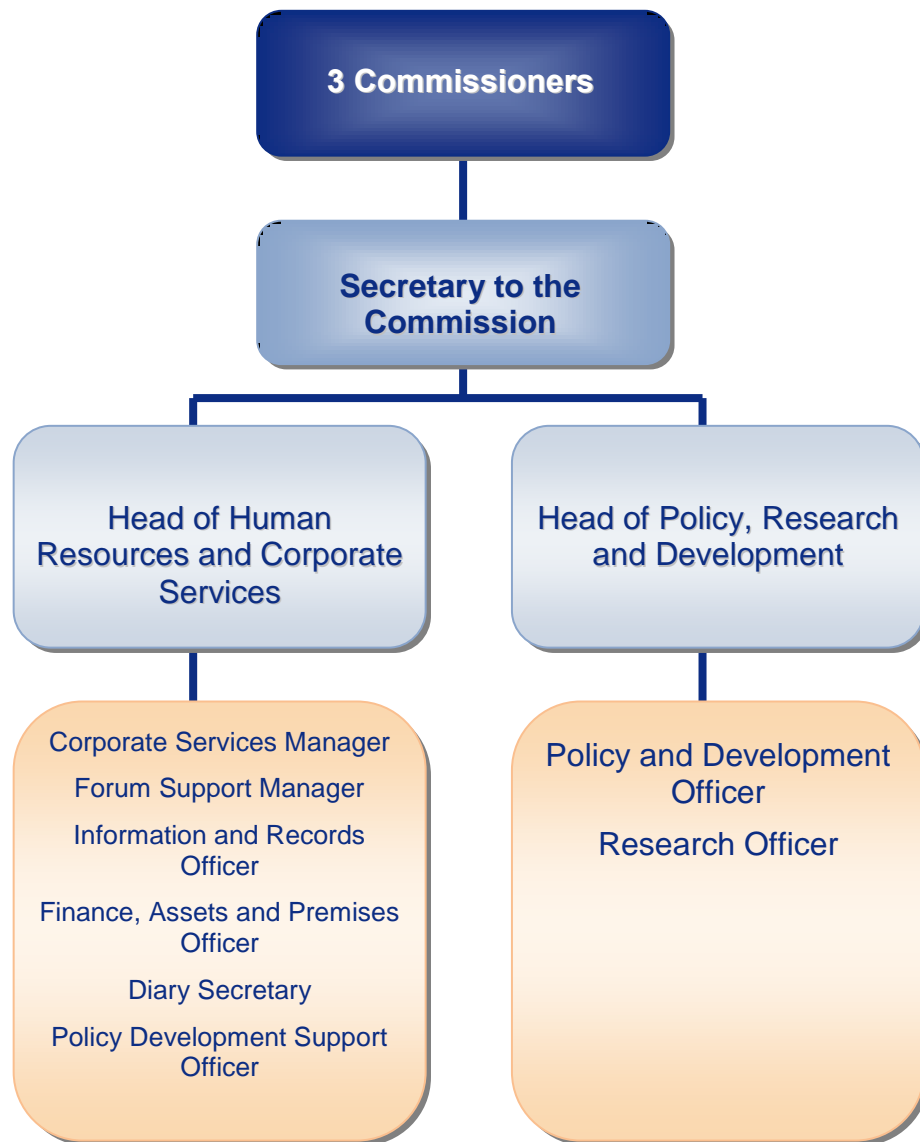
Specifically, the 2008 legislation sets out the general powers of the Commission which are:

- The Commission may undertake, commission or provide financial or other assistance for research or educational activities concerning the interests of victims and survivors or the exercise of his functions.
- The Commission may, after consultation with such bodies or persons as he thinks fit, issue guidance on best practice in relation to any matter concerning the interests of victims and survivors.
- The Commission may:
 - compile information concerning the interests of victims and survivors;
 - provide advice or information on any matter concerning the interests of victims and survivors;
 - publish any matter concerning the interests of victims and survivors including, the outcome of any research or activities mentioned in paragraph and any advice provided by the Commission.
- The Commission may make representations or recommendations to anybody or person concerning the interests of victims and survivors.

2.3 Organisational Structure and Staffing

The Commission consists of three full-time Commissioners, a Secretary, two senior managers and seven staff. Figure 1 sets out the structure and reporting arrangements in the Commission.

Figure 1: Structure and Reporting Arrangements in the Commission



The Commission achieved its full staffing complement in January 2011. It is worth highlighting that until 2011, the Commission had operated with a mix of permanent and temporary appointments and/or temporary secondments and staff vacancies.

2.3.1 The Commissioners

The Commissioners are responsible to the Ministers and are responsible for ensuring that the Commission's policies and actions are consistent with the relevant legislation and that all actions taken in the exercise of the Commission's functions are conducted with probity.

The Commissioners have corporate responsibility for ensuring that the Commission fulfils the aims, objectives and work programmes agreed with OFMDFM and approved by the Ministers. Commissioners have leadership responsibility for:

- formulating its strategy;

- ensuring that, in reaching decisions, it takes proper account of any guidance provided by the Ministers or OFMDFM;
- promoting the efficient, economic and effective use of staff and other resources;
- encouraging high standards of propriety; and
- representing the views of the Commission to the public.

Communications between the Commissioners and the Ministers on operational and strategic matters are normally through nominated policy staff in OFMDFM.

The Commissioners are appointed for a four-year period and are eligible for re-appointment once. Their current term of office expires on 23rd May 2012.

2.3.2 Secretary to the Commission

The Secretary is designated as the Accounting Officer (AO) and is personally responsible for safeguarding the public funds for which she has charge; for ensuring propriety and regularity in the handling of those public funds; and for the day-to-day operations and management of her staff and resources. This arrangement was selected due to the corporate body status of the Commission and having four equal Commissioners.

In addition, the Secretary leads on the development of the corporate plan and annual business plan for the Commission. The Secretary is also required to report performance, forecasts and monitoring information to OFMDFM. The Secretary took up post in April 2009.

2.3.3 Head of Human Resources and Corporate Services

The Head of Human Resources & Corporate Services is responsible for the management and supervision of the administration team, the development of HR and Corporate Services policies. She is also responsible for managing the Commission's casework and Audit and Risk Committee. The Head of HR and Corporate Services reports to the Secretary to the Commission. The Head of Human Resources & Corporate Services took up post in September 2008.

2.3.4 Head of Policy, Development and Research

The Head of Policy, Development and Research manages the Commission's Policy and Research staff. He is responsible for reviewing the adequacy and effectiveness of services provided for victims and survivors and researching practice and monitoring progress in policy analysis, research, investigations and reviews to ensure recommendations are implemented by relevant public authorities. In addition, he is responsible for engaging with victims and survivors and liaising with key stakeholders. The Head of Policy, Development and Research reports to the Secretary to the Commission. The Head of Policy, Development and Research took up post in April 2010.

2.3.5 Policy and Development Officer

The Policy and Development Officer supports the Policy, Development and Research Manager in the Commission's policy work. He is responsible for reviewing the adequacy and effectiveness of services provided for victims and survivors as well as the practice and law related to them. He prepares and presents policy papers and evidence-based research on issues affecting victims and survivors, engages with victims and survivors and liaises with key stakeholders. The Policy and Development Officer started in April 2010.

2.3.6 Research Officer

The Research Officer supports the Policy, Development and Research Manager in the Commission's research work. He works on a wide range of research projects, provides information and analysis on policy issues. The Research Officer also engages with victims and survivors and liaises with key stakeholders. In addition, he assists the Policy and Research Manager in the implementation of the Policy and Research Strategy. The Research Officer started in April 2010.

2.3.7 Corporate Services Manager

The Corporate Services Manager is responsible for the overall management of the Commission's administrative support and duties including IT Support, information management, diary management, meeting support, finance and assets and premises. She is also responsible for the preparation of draft policy options papers, assisting with the development and maintenance of HR policies and procedures, monitoring monthly budgets and Policy Development Support.

The current Corporate Services Manager is seconded from the Department of Agriculture and Rural Development and started at CVS in September 2009.

2.3.8 Forum Support Manager

The Forum Support Manager is responsible for the management of all facets of secretariat support to the Forum for Victims and Survivors. They are responsible for scheduling and logistical support for meetings of the Forum and its sub-committees, the provision of all supporting paperwork to the Commission and Forum members, managing the Forum budget and contributing to the development and monitoring of the Commission Business Plan.

The Forum Support Manager started at CVS in April 2009, initially as a temporary position, becoming permanent in December 2010.

2.3.9 Diary Secretary

The Diary Secretary is responsible for managing and maintaining the diaries for the Commission and the Secretary to the Commission. She acts as the main contact for the Commissioners and the Secretary in respect of appointments and correspondence and attends meetings and takes minutes as and when required. In addition, she is responsible for planning and implementing logistics for meetings

and making appropriate travel arrangements and venue bookings. The Diary Secretary reports to the Corporate Services Manager and started in December 2009.

2.3.10 Information and Records Officer

The Information and Records Officer is responsible for the Information Technology in the organisation, including IT liaison, administration, technical support and data protection. He is also responsible for the Commission's external Information Management, including acting as the key media contact, maintaining the Commission's corporate identity, managing the website and preparing the CVS Newsletter. In addition, he is responsible for internal records management. The Information and Records Officer started in October 2009.

2.3.11 Finance, Assets and Premises Officer

The Finance, Assets and Premises Officer is responsible for financial management, including purchasing, processing invoices and expenses, budgetary monitoring, banking, payroll management and assisting auditors. She is also responsible for maintaining the asset register and managing the Commission's stationery. Concerning premises, she assists with managing the contract with all premises services suppliers and conducting and reporting on Health and Safety assessments. The Finance, Assets and Premises Officer started in January 2010.

2.3.12 Policy Development Support Officer

The Policy Development Support Officer is responsible for research support, including assisting with developing a research database, providing administrative support to the Policy Development Officers and maintaining the Commission's publications and research library. She is also responsible for providing project support, including administration, recording minutes and taking notes and planning and implementing the logistics for meetings and public events. In addition, the Policy Development Support Officer acts as an initial client contact point and is responsible for signposting clients as well as collecting data for the client contact sheet. The Policy Development Support Officer reports to the Corporate Services Manager.

2.4 Office of the First Minister and Deputy First Minister

OFMDFM is a fully functioning department of the Northern Ireland administration with a wide range of responsibilities.

The Executive's Programme for Government 2008-11, Budget 2008-11 and Investment Strategy for Northern Ireland 2008-18 (www.pfgbudgetni.gov.uk) provide the framework for OFMDFM's work. These set out a series of key goals and priorities for OFMDFM around promoting tolerance, inclusion, health and wellbeing, investing in Northern Ireland's infrastructure and delivering modern, high quality and efficient public services.

The Programme for Government is supported by 23 Public Service Agreements (PSAs) and OFMDFM has lead responsibility for three PSAs (and contributes to a number of other PSAs).

The strategic priority areas (and strategic objectives) for the Department are as follows:

- Making People's lives better (PSA 7)
- Driving investment and sustainable development (PSA 11)
- Enabling Efficient Government (PSA 21).

Notably, PSA 7 contains a specific objective for OFMDFM in relation to the Commission for Victims and Survivors as demonstrated:

Objective 6	Working with the Commissioner for Victims and Survivors, to develop and implement a new, comprehensive strategic approach to Victims and Survivors.
Actions	<p>Publish a new strategy for victims and survivors and establish a Victims and Survivors Forum.</p> <p>Establish a new scheme to provide support, assistance and advice for groups and individuals and agree arrangements for the sponsorship of the office of the Commissioner for Victims and Survivors.</p>
Target	<p>New strategy published by March 2008.</p> <p>Forum established by March 2008.</p> <p>New Scheme published by March 2008 and fully established between June and December 2008</p>

Source: Building A Better Future: Northern Ireland Executive Programme For Government 2008-2011

This clearly establishes that responsibility for victims and survivors lies with OFMDFM and provides a clear rationale for it to be the sponsoring department of the Commission.

Within the Department, liaison and oversight of the Commission is split between a Sponsorship, Governance and Funding Pool which oversees financial and other management controls and reporting arrangements and a Policy Lead who is responsible for monitoring the Commission's activities, informing the Commission of relevant government policy and advising on the interpretation of that policy.

Chapter 5 provides further details on governance arrangements and reporting between the Commission and OFMDFM.

3 Context for the Review

3.1 Overview

In any review of an organisation, its performance, and contribution, it is necessary to understand and take account of the environment and context in which it operates. This is particularly pertinent for the Commission for Victims and Survivors given the nature of its remit and complexity and sensitivity of the issues associated with Northern Ireland and with victims and survivors.

The following sub-sections set out an overview of the strategic and policy context, the operational and the environmental contexts and, finally, the current fiscal climate.

3.2 Policy Context

3.2.1 Overview

Policy and strategy relating to victims and survivors has developed since 1998.

The Social Services Inspectorate (SSI) Report, *Living with the Trauma of the Troubles* (1998), the Northern Ireland Victims Commissioner's Report, *We Will Remember Them* (1998) and the Good Friday Agreement (1998) represented a sea change in the recognition of the impact of the Troubles in Northern Ireland and of the willingness and intention to address such needs. Indeed, the Good Friday Agreement in 1998, in relation to victims, stated that it was essential to acknowledge and address the suffering of victims as a necessary element of reconciliation.

Prior to this point, it was virtually impossible to formally and structurally address the impact of the on-going violence. The shift of context created by the ceasefires and the developing political talks made a seismic difference. Since the publication of these documents, notable progress has been made on a number of fronts and there has been a significant investment from Government and non-Government sources in services for victims and survivors.

Key developments in relation to policy and support services for victims are summarised below, one of which was the establishment of the Commission for Victims and Survivors in 2005.

- The establishment of the Victims Liaison Unit by the Northern Ireland Office (NIO) in 1998 in response to the Northern Ireland Victims Commissioner's Report.
- The establishment of the Northern Ireland Memorial Fund in 1998, again in response to the Victims Commissioner's Report.
- The establishment of the Victims Unit within OFMDFM after the Assembly was first established (in June 2000) to represent OFMDFM and to liaise with external bodies etc.

The creation of the Victims Liaison Unit and the Victims Unit in 2000 created two specific units through which activity on issues affecting victims of the conflict were coordinated.

- A review of compensation arrangements.
- The development of services and funding streams.
- The establishment of the regional Family Trauma Centre.
- The development of a Strategy by OFMDFM (Reshape, Rebuild, Achieve April 2002).
- The Victims Unit launched a Victims Strategy, Reshape, Rebuild, Achieve (2002), in April 2003 setting out a wide range of recommendations for government agencies and others to deliver practical help and service to victims. This report was one of the first government documents to define the term victim.
- The formation of an Inter Departmental Working Group to coordinate the Assembly's Departments' work and responses in relation to those affected by the Troubles.
- Government's Policy and Strategic Framework for Good Relations in Northern Ireland A Shared Future

Building on the findings of Reshape, Rebuild and Achieve, the Services for Victims and Survivors Consultation Document published by the Victims Unit in March 2005 dealt primarily with the possibility of appointing a Victims and Survivors Commissioner as well as detailing how services for victims could be delivered effectively.

Government's Policy and Strategic Framework for Good Relations in Northern Ireland A Shared Future, published in 2005, set out the policy objective to ensure voice is given to victims of violence in Northern Ireland. This set out a strategy to:

- provide a comprehensive approach to the provision of services for victims and survivors;
 - and ensure, through the appointment of a Commissioner for Victims and Survivors and the establishment of a victims' and survivors' forum, that services for victims and survivors are directed in a way which promotes the welfare of all those who have suffered as a result of the conflict in Northern Ireland.
- Trauma Advisory Panels (TAPS) established in each of the (as then) four health and social services boards.
 - Establishment of a new Victims and Survivors' Commissioner, 2005.
 - Appointment of Commissioners in 2008.
 - Publication of the Strategy for Victims and Survivors in 2009.

3.2.2 Current Strategy for Victims and Survivors

OFMDFM's Strategy for Victims and Survivors (2009) is a 10-year strategy designed to provide the outline to a coherent and comprehensive approach for taking forward work on a range of issues relating to victims and survivors. It puts in place arrangements to ensure that the voice of victims and survivors is represented and acted upon at a governmental and policy level and to secure support services and assistance to victims and survivors in addressing the legacy of their past and contributing to a shared future.

The Strategy highlights required action in three key areas:

- A comprehensive needs assessment to inform the development of services in order to examine the effectiveness of services for victims and survivors and to create a sound basis for funding the work of victims and survivors groups and other non-statutory organisations providing services in the area;
- Dealing with the past; and
- Building for the future.

In order to address these three issues, the Strategy identifies three key organisations to take the work forward, namely CVS, the Victims and Survivors Forum and a Victims and Survivors Service.

The Victims and Survivors Service will be the focal point for funding work with victims and survivors and will replace a number of existing funding schemes that provide resources to victims' and survivors' groups and other voluntary organisations working with victims and survivors. The Service is dedicated to meeting the needs of victims and survivors over the period of the Strategy, with the goal that the needs of victims and survivors will increasingly be met as part of general services, resulting in the reduction of need for certain services specifically provided for victims and survivors.

Concerning roles and responsibilities in the victims and survivors sector, the Government sets policy for victims and survivors and is responsible for the resourcing of the sector. The Victims and Survivors Service should be the delivery vehicle and will provide resources and commission services to meet the needs of victims. The Commission oversees and provides guidance to the Forum in relation to the three key areas.

Specifically, in relation to the Commission, the Strategy sets out clear roles and responsibilities, including:

- The Commission has a statutory duty to promote awareness of matters relating to the interests of victims and survivors and of the need to safeguard those interests. The Commission should also keep under review the adequacy and effectiveness of law and practice affecting victims and survivors.
- The Commission should be the primary source of advice to government on victims and survivors issues. It is responsible for the strategic assessment of need and should ensure that structures are in place to meet the needs of the sector and identify any gaps in provision.
- The Commission should provide guidance to the Victims and Survivors Forum to ensure that the Forum retains a clear focus and is productive. It is the responsibility of the Commission to ensure that the Forum contributes to its programme and to obtain the agreement of the First Minister and deputy First Minister to the work to be carried out.
- The Commission has powers to conduct or commission research and issue guidance on best practice in relation to any matter concerning the interests of victims and survivors.

- The Commission should be there to provide information about available services to victims and survivors.
- The Commission is responsible for developing a comprehensive needs assessment in order to comment upon the effectiveness of services for victims and survivors and represent the needs of victims and survivors to government in a coherent fashion. It should issue guidance to the Forum on how it intends to develop this assessment and how the Forum contributes to this.
- The Commission is responsible for providing good practice guidance on the establishment of outcome measures to assess the effectiveness of the delivery of services.
- The Commission should establish links to the work of the Commissioner for Children and Young People in order to address the inter-generational impact of the troubles on children and young people.

This Strategy identifies the Commission as a key organisation in the development of services and in safeguarding the needs of victims and survivors. It sets clear roles and responsibilities for the Commission and provides a clear rationale for the work undertaken by the Commission.

3.3 Operational Context

This review of the Commission covers the period of its inception from 2008 to March 2011². There are a number of factors which must be considered in terms of the establishment of the office of the Commission.

3.3.1 Appointment of Commissioners

The establishment of a Commission for Victims and Survivors was overshadowed by political controversy at its inception.

An Interim Commissioner was appointed in October 2005 and served until January 2007, but subsequently the Court of Appeal ruled that the appointment was not lawful, and that the then Secretary of State for Northern Ireland, Peter Hain, failed to consider the code of practice for ministerial appointments to public bodies.

The NIO advertised for a replacement Victims Commissioner in January 2007. The original intention was for one Commissioner but in the event, the First Minister and deputy First Minister of the Northern Ireland Executive appointed four Commissioners as equals.

This had two impacts, one being that the Department (OFMDFM) was somewhat unprepared for an office of four Commissioners. The appointment of four Commissioners meant that the original legislation had to be amended, resulting in the Commission for Victims and Survivors Act (Northern Ireland) 2008.

² The review covers the first three years of the Commission, and not the full four-year term of the appointed Commissioners.

The second and more substantial impact was that all four Commissioners were in effect four equal strangers, with differing ideas and views. This led, understandably, to inherent tensions between them, and has undoubtedly had an impact on the performance and effectiveness of the Commission. This theme is revisited in Chapter 4 (Performance) and Chapter 6 (Consultation Findings).

In addition, it must be considered that one Commissioner resigned in February 2010 to become a parliamentary candidate while a second Commissioner was on long-term sick leave for approximately six months. Thus, the Commission has not, over the timeline for this review, always operated with four Commissioners.

3.3.2 Staffing Resource

The office of the Commission was established with two staff in post (temporary positions) prior to the Commissioners commencing work in June 2008. A permanent Secretary was not appointed until April 2009, and, while a Head of Human Resources and Corporate Services was appointed in September 2008, a Head of Policy, Research and Development was not appointed until April 2010. It is noteworthy that the Commission only reached its full permanent staffing complement in January 2011. Therefore the Commission operated with a series of permanent and temporary staff for most of the period covered by this review. This meant that the Commission's resource capacity was low which, as subsequently demonstrated, impacted on progress with some of the key work activities of the Commission.

It is also worth highlighting that, at the time of this review, the Commission was a relatively new entity, and the reality is that most organisations take time to evolve, determine their remit, clarify their role, establish working relationships with stakeholders and create an identifiable approach and culture.

3.4 External Environment

In terms of victims and survivors, estimates vary, but approximately just under 4,000 people lost their lives with an estimated 50,000 individuals who have been physically affected by the conflict (killed or injured)³, in addition to others who have suffered psychological trauma because of the Troubles.

A number of groups have evolved and developed over time, representing victims and survivors and/or working with and/or providing specific services to victims and survivors.

These groups and organisations vary in terms of origin, size, location, experience, beliefs and purpose. Some of these groups have emerged due to specific events or events in a geographical area, or specific issue, while others are in response to perceived needs and/or established to meet perceived needs and gaps in services.

Funding for groups and organisations working with victims and survivors is provided through various sources, with a key source of funding being provided by

³ Training for Women Network, *In Their Own Words – A Research Report into the Victims Sector in Northern Ireland*

CRC. CRC delivers PEACE III funding to community and voluntary groups and receives funding from OFMDFM for community-based work with victims and survivors. In terms of victims and survivors, the NIMF is the main source of funding for individuals.

Despite the development of and progress in policy and strategy for victims and survivors over the last decade and more, there remain a number of key challenges facing the Victims and Survivors sector. These include:

- The needs of victims and survivors are as likely to be as diverse as the number of victims and survivors themselves, and there has been no comprehensive assessment of needs (prior to the work of the Commission).
- While there is a definition of a victim in the Victims and Survivors (Northern Ireland) Order 2006, there is no consensus on the definition of a victim and survivor within the Victims and Survivors sector and the wider community. This reflects the diversity of opinion, view and experience and reflects that there is political capital in defining who may be a victim.
- While there has been significant dedicated funding for both groups and for individuals⁴, often this has been on a short-term basis with no long term certainty and funding has been oversubscribed. This gives rise to issues regarding the long-term sustainability of services to victims and survivors provided by organisations.
- There are 'hidden' victims and survivors who may face financial hardship or psychological trauma and who are unaware of the support and services available to them. It has also been reported that some individuals may have concerns regarding groups, including a wish to deal with trauma privately, the (perceived or real) political alignment of groups, location of services, trust issues and the stigma attached with being a victim.⁵
- There is no framework in place for the victims and survivors sector concerning standards in terms of service provision and it is recognised by many that there is a need for substantial capacity building within the sector, in terms of managerial ability and governance and accountability.

It is within this context that the Commission was established to keep under review the adequacy and effectiveness of services provided for victims and survivors and to ensure the interests of victims and survivors are safeguarded.

3.5 Devolution, Justice and Policing

The Northern Ireland Office

The NIO is responsible for overseeing the Northern Ireland devolution settlement and representing Northern Ireland interests at UK Government level and UK Government interests in Northern Ireland.

⁴ Approximately £50m over the current CSR period.

⁵ Deloitte and Touche – Evaluation of Services to Victims and Survivors (2001)

Although the NIO transferred responsibility for policing and criminal justice to the Northern Ireland Assembly and Executive in April 2010, the NIO continues to work with the Northern Ireland political parties and with the Irish Government to support successful devolution in Northern Ireland and to work with key stakeholders to maintain a secure and safe environment and to ensure that policy development within the United Kingdom takes full account of circumstances in Northern Ireland.

Specifically, as part of its remit, it has responsibility for making a positive contribution to dealing with the legacy of the Troubles.

The Department of Justice (DOJ)

The DOJ is a new Northern Ireland Department which came into existence on 12 April 2010 and was established by the Department of Justice Act (Northern Ireland) 2010. It has a range of devolved policing and justice functions set out in the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010.

The role of the Department is to support the Minister of Justice to help keep the people of Northern Ireland safe. The devolution of policing and justice powers to Northern Ireland marks a significant step, with the DOJ taking over responsibility for many functions and agencies previously controlled by the London-based NIO.

In addition to its statutory functions, the DOJ provides resources and a legislative framework for its agencies and arms length bodies (which together constitute most of the justice system in Northern Ireland). Together with these organisations, the Department is responsible for ensuring there is a fair and effective justice system in Northern Ireland and for increasing public confidence in that system.

In its first Business Plan, the DOJ has identified a number of themes including:

- Justice in a shared future – focusing on how the DOJ can contribute to the Shared Future strategy for Northern Ireland, including by examining the steps that can be taken to address problems at interface; and
- Access to justice - Looking at how the DOJ can ensure that everyone in Northern Ireland has access to justice without undue delay, taking particular account of the needs of victims and witnesses.

The theme of dealing with the past is also topical, with the Minister for Justice highlighting that “how we deal with the past will either become another vehicle that takes us forward, or it will become a road block to progress”.

This means that responsibility for issues pertaining to victims in the wider sense and dealing with the legacy of the past crosscuts NIO, DOJ and OFMDFM. Therefore, it is feasible that, as DOJ becomes more established, it may play a greater role in matters pertaining to victims and survivors as part of its remit to contribute to increasing public confidence in the justice system and in building a fair, just and safer community while NIO continues to play its role in promoting peace and stability.

3.6 VFM and Fiscal Climate

There is a need for value for money (VFM) for any government intervention which means that a key focus of this review of the Commission is on VFM issues. In addition, the fiscal climate and pressures on public sector funding pertaining at the time of the review reinforced this focus.

The UK Coalition Government's Spending Review 2010⁶ resulted in substantially reduced public sector funding for Northern Ireland. This, in addition to a general decline in the economic climate in Northern Ireland, has been reflected in the Northern Ireland Executive's Budget for 2011-2015. This Budget highlights the significant impact that Coalition Government's cut in public expenditure will have on Northern Ireland, particularly due to Northern Ireland's reliance on the Public Sector in terms of both employment and private sector contracts.

At the time of this review, Northern Ireland had entered a period in which public expenditure was substantially constrained, affecting all government departments and therefore their NDPBs. All NI departments, including OFMDFM, were tasked with making substantial savings in order to enable the NI Executive to live within the projected outcome of the UK Spending Review.

Thus, there is an increased need to ensure the work carried out by the Commission has been properly focused on achieving maximum efficiency, effectiveness and impact and that the Commission can demonstrate value for money.

In looking to the future, again, this review of the Commission needs to be cognisant of the fiscal climate and departmental budgetary constraints and ensure that any future recommendations are both affordable and represent value for money. If there is still a demonstrated requirement for a Commission, then clear recommendations are made regarding the most effective delivery model and that the Commission is set up to manage the efficiency, effectiveness and economy of its services and to ensure that a value for money ethos is embedded.

Review of NDPBs

An additional consideration, related to the fiscal climate and requirement to provide value for money, is, at the time of the review, an ongoing review of NDPBs in Northern Ireland. At the time of the review, the findings of this are unknown but it is likely that the review of the Commission will need to be considered again in light of any emerging findings.

⁶ http://cdn.hm-treasury.gov.uk/sr2010_completereport.pdf

4 Review of Corporate Performance

4.1 Introduction

This Section provides a review of the Commission's performance for its first three years, from 2008/09 to 2010/11.

4.2 The Commission's Plans

As stipulated in the MSFM, the Commission is required to submit a three-year Corporate Plan by 31 January each year to OFMDFM, which should be agreed by 28 February. The main elements of the Corporate Plan must reflect OFMDFM's decisions on policy and resources, and take account of the context of the Executive's wider policy and spending priorities and decisions.

As per the Corporate Plan, the Commission is required to submit and agree an annual Business Plan, i.e. a Work Programme, setting out key targets. The Business Plan (Work Programme) must be submitted in the same timeframe as the Corporate Plan. In addition, the Business Plan must be linked to budgeting information so that resources allocated to achieve specific objectives can readily be identified by OFMDFM.

Furthermore, the Corporate Plans, Business Plans and associated Work Programmes should be published and made available on the Commission's website.

In order to assess the current performance of the Commission, KPMG undertook a review of the following documents and this was supplemented with consultation with the Commissioners and staff, representatives from OFMDFM and external stakeholders.

Corporate Plans

- 2 year Corporate Plan 2009-2011
- 3 year Corporate Plan 2010-2013
- (Draft) Corporate Plan 2011-2014

Business Plans / Work Plans

- Initial Work Programme June 2008- March 2009 and Business Plan Progress Report for Year End
- Work Programme April 2009- June 2010 and Progress Report for Year End
- Work Programme April 2010-March 2011 [and Revisions July 2010, Revisions November 2010] and Progress Report
- Business Plan 2010-2011

- Business Plan 2011-2012

Annual Report and Accounts

- Annual Report and Accounts 2008/2009
- Annual Report and Accounts 2009/2010

4.3 Performance against Work Programmes

At the time of the review, the Commission's plans are focused on the strategic themes emanating from its legislative basis i.e. promoting awareness, reviewing law and practice, reviewing services, advice to government, and establishment of a forum for consultation and discussion, and an additional strategic aim relating to the development of the Office of the Commission.

This is a clear and pragmatic approach, which should allow the Commission to set out clearly and succinctly its strategic activities in respect of its legislative themes and ultimately to demonstrate its contribution to government.

However, it would be useful for the Commission to review its strategic aims and ensure that it is making a difference and that it is using its statutory authority to improve coherence among individuals and groups of/for victims and survivors and is making best use of resources. This should help the Commission to be more focused and targeted on strategic changes and improvements and to help prioritise its work and utilisation of resources.

It would also be appropriate for its aims to be expressed as SMART aims i.e. Specific, Measurable, Achievable, Realistic and Time-bound which would help further in terms of scoping and identifying required resources.

Over this period the Commission set itself a number of tasks and activities associated with, for example, casework, developing a Comprehensive Needs Assessment (CNA), undertaking other research and advice, establishing a Forum, supporting the development of the Service for Victims and Survivors, and establishing its Office.

4.3.1 Key Achievements

The Commission has undertaken a range of meetings and consultations and has met individuals and groups on a one-to-one basis to discuss particular difficulties or issues. This has allowed the Commission to undertake an advocacy role for individuals and to lobby on matters which affected the lives of victims and survivors. The Commission has held a series of public meetings to discuss its proposed work which contributed to the development of subsequent work programme plans. The Commission was also engaged in consultations and discussions on OFMDFM's Strategy for Victims and Survivors and subsequently provided support to the Department on its new Service for Victims and Survivors. Furthermore, there have been a number of meetings with Ministers and their Junior Ministers.

Over this period, the Commission provided advice to Ministers including reports on Dealing with the Past and a Review of the TAPS. It also produced a number of reports including the following:




- Forum Design Plan and Evaluation Report
- Public opinion survey to gauge public opinion on the consultation on the Consultative Group on Dealing with the Past
- Initial Review of Need and Comprehensive Needs Assessment: First Interim Report (September 2010).

The Forum has had an extensive series of meetings and produced a range of papers for consideration for the Commissioners. At the time of the review, a business case is being prepared for a new Forum which is expected to be established in the autumn 2011.

4.3.2 Overview of Performance

Tables 1 - 3 set out an overview of the Commission's reported and validated performance against its Work Programmes for the period 2008-2011⁷.

Table 1 Overview of Performance 2008-2009

				Tasks / Targets
Initial Work Programme/ Business Plan June 2008 - March 2009				
Strategic Aim 1 – Promote awareness	7	0	4	11
Strategic Aim 2 – Review law and practice	2	0	3	5
Strategic Aim 3 – Review services	4	0	4	8
Strategic Aim 4 – Advice to Government	1	0	5	6
Strategic Aim 5 – The Forum	2	0	1	3
Strategic Aim 6 – The Commission	4	0	0	4
Total for June 2008 - March 2009	20	0	17	37
Percentage of total tasks/ targets (%)	54%	0%	46%	100%

⁷ All information is sourced from Outturn Reports approved by OFMDFM and KPMG has placed reliance on this information.

Table 2 Overview of Performance 2009-2010

	●●●	●●	●	Tasks / Targets
Work Programme/ Business Plan April 2009 - March 2010				
Strategic Aim 1 – Action and inclusive listening and representation	4	3	0	7
Strategic Aim 2 – Clear, evidence-based advice and guidance to Government	0	1	8	9
Strategic Aim 3 – Services: Excellent and effective delivery and standards of excellence	0	1	1	2
Strategic Aim 4 – A sustainable future for the Victims and Survivors	1	0	0	1
Strategic Aim 5 – A Commission that is fit-for-purpose and provides value for money	8	2	2	12
Total for April 2009 - March 2010	13	7	11	31
Percentage of total tasks/ targets (%)	42%	23%	35%	100%

Table 3 Overview of Performance 2010-2011

	●●●	●●	●	Tasks / Targets
Work Programme/ Business Plan April 2010 - March 2011				
Strategic Aim 1 – Listen to and advocate determinedly the views of victims and survivors	11	0	1	12
Strategic Aim 2 – To provide clear evidence based advice and guidance to government	4	2	1	7
Strategic Aim 3 – Monitor the effectiveness of services provided to victims and survivors and report on progress towards identified desired outcomes	1	0	3	4
Strategic Aim 4 – A Commission that is fit-for-purpose and provides value for money	8	4	2	14
Total for April 2010 - March 2011	24	6	7	37
Percentage of total tasks/ targets (%)	65%	16%	19%	100

●●● Fully achieved; ●● partially achieved; ● not achieved

These demonstrate that the Commission did not achieve a proportion of the tasks and targets in its Work Programmes in its first three years. While it is positive to note that its performance has improved in Year 3, and there has been substantial progress with specific key outputs from the 2010/2011 Programme regarding the Forum, key deliverables have not been fully delivered within timescale.

An analysis of outturn report comments on slippage indicates that there have been two main reasons for non-achievement. These are in relation to:

- A lack of sufficient resource
- Activities which required further consultation and/or further scoping.

At the time of the review, the Commission has not delivered on a number of strategic activities to support the development of the new Service for Victims and Survivors. This includes delays in the completion of the CNA and a lack of definitive progress on the development of good practice guidance for befriending, counselling and advocacy standards and services that would meet best practice guidelines. A common theme across the three years has been the achievement of minor activities but a lack of sufficient progress on more substantial and strategic activities.

However, it is encouraging that the Commission is beginning to make substantial progress on some of its key activities, albeit not always within identified timescales, as it has acquired the necessary staffing resource.

4.4 Factors Impacting on Performance

4.4.1 Corporate Planning

An analysis of performance against Work Programmes indicates two key issues evident in the Commission's corporate planning.

- There is clear evidence that the Commission did not produce realistic yet challenging plans. An additional point is that the Commission has not always produced its plans for agreement with OFMDFM on time (although it is noted the Department has not always been timely in achieving sign-off). This raises a wider question about the strategic business planning skills within the Commission (see 4.4.3).

The issues of being too ambitious, needing to prioritise and accounting for staffing resource were highlighted to the Commission in feedback from Ministers on the first draft Work Programme but this feedback does not appear to have been taken on board.

The Commission recognises, at the time of the review, that it was overly optimistic in its early plans and did not take into sufficient account the staffing resource in post. In addition, some activities, such as the setting up of a Forum, took longer than anticipated. Given the nature of the Forum and its diverse membership, this delay was understandable.

OFMDFM signed off on the Commission's proposed Work Plans despite the aforementioned issues and consistent lack of achievement, which was not an advisable course of action. KPMG recommends that OFMDFM undertakes a more robust critical appraisal of the Commission's future plans, seeking assurance that they are ambitious and challenging and yet are realistic, and that this is done on a timely manner.

- The second issue relates to monitoring and assessment against plans within the Commission and a lack of robust evidence of effective monitoring against the Work Programmes. The Commission's inconsistent delivery on its Work Programmes indicates a lack of effective monitoring against plans.

Consultation with the Commission does not suggest that there was sufficient challenge and scrutiny of performance against its three Work Programmes at Board level and there is a lack of evidence contained in Board minutes to suggest otherwise. The Commission has recognised this issue and has presented a proposal for reform. (This theme is considered in Chapter 5 on governance).

Similarly, consultation with the Commission, and evidence presented by OFMDFM, indicates that the Department has become substantially more robust in its challenge function with the Commission, albeit this should have been a consistent approach from Year 1's Work Programme. Correspondingly, consultation with the Commission indicates a mature approach to this scrutiny and which has endeavoured the Commission to improve upon its planning and monitoring of Work Programmes. (Additional commentary on reporting arrangements is provided in Chapter 5 on governance).

4.4.2 Additional Observations

In addition, there are a number of observations to note on the three Work Programmes presented:

- Although the Commission's Work Programme activities are structured around their strategic legislative themes, the actual tasks and targets across each of the three years comprise a mix of what KPMG consider to be substantial actions and minor activities.

For example, in Year 1, one achieved target was the submission of an Expression of Interest for a funding application and a year 2 achieved target was a full submission. [An issue arising from this funding application is further referenced in Chapter 6 on consultation findings].

More positively, the 2011/2012 Work Programme (which is outside the scope of this review) is more focused on substantial actions, with clear and tangible indicators to measure success. In addition, the Commission is identifying a Senior Responsible Officer (SRO). Specific activities and tasks associated with achieving these substantial actions then cascade down to team/staff work plans. Such an approach should also help both in scoping activities, monitoring progress and delivering against plan.

Consultation with staff indicated that all were clear on the remit of the Commission and their specific roles and responsibilities. Detailed work plans are being developed for specific work streams with identified staff resources. Staff considered that the current staffing structure and resources were appropriate, in terms of both skill mix and number of staff, to deliver on future work programmes.

- Further analysis of some of the tasks and targets achieved suggests two (inter-related) key issues:

- The quality of output associated with achieved tasks / targets
- The impact of these achieved tasks / targets.

For example, achieved targets in Year 1 include a Communications Strategy and in Year 2 a Strategy for Stakeholder Engagement. While it was positive that the Commission developed these, a review of these strategies suggests there is considerable scope to improve on them, for example, by setting clear performance indicators and identifying a means of evaluating their impact.

Furthermore, there is limited evidence that such strategies are implemented, or implemented on a consistent basis, and no formal evidence that the Commission has reviewed the impact of these strategies.

In the case of some other actions and activities, the impact has been perceived by some stakeholders as being detrimental in terms of establishing the Commission as a credible entity, in building relationships and in working in partnership. (Examples of such activities include a Peace III funding application; public announcements on its advice to Ministers prior to Ministerial acceptance). In part, this reflects the sensitivity and complexity of the issues associated with Northern Ireland and with victims and survivors and of differences in interpretation, understanding and agreed actions. However, it also reflects on the Commission's understanding of its role and remit as an advisory body and the standard protocols and good practice associated with public office.

4.4.3 Skills and Experience within the Commission

An analysis of the factors impacting on performance suggests there are a number of key skills gaps within the Commission.

- Business planning capacity and capability

Consultation with the Commission indicates that it is recognised that there have been challenges in developing robust plans and delivering on these. In part, this reflects the fact that plans were dependent on all four Commissioners agreeing with any proposed activities but also reflects challenges in the strategic business planning capacity and capability within the Commission.

Moreover, Ministerial feedback on the first draft Work Programme (as noted in 4.4.1) and the slippage reasons as noted on the Commission's outturn reports do not appear to have been taken on board which suggests that the Commission did not learn from and build on its experience year by year, which suggests a skills development issue.

- Understanding of the issues and their complexity

The Commission underestimated the scale/scope of tasks involved and workload to succeed for a number of key activities which could be interpreted as demonstrating a lack of understanding of the issues and complexity and of what would be involved. A review of activities across the three Work Programmes (2008-2011) suggests a "wish list" approach which was not going to fully deliver, especially in the first two years.

- Role and remit of public office

The fact that some actions have been understandably criticised suggests a lack of understanding of the role and remit and of the standard protocols and good practice associated with public office. Furthermore, the fact that the Commission did not achieve a proportion of its tasks and targets in each of its three Work Programmes, resulting in financial under-spends (see 5.9 for details), suggests a lack of understanding of the Board in reporting and accountability in public bodies and the requisite skills set for effective management and financial reporting. Furthermore, consultation with the Commission would reflect a level of frustration with what is perceived to be the bureaucracy associated with the Office of the Commission, and a need for the Commission to act decisively and without administrative interference in order to be an effective agent of positive change for victims and survivors.

These suggest training requirements within the Commission and would suggest there is a need for OFMDFM to revisit the skills set and requirements in any subsequent recruitment campaigns.

4.5 Government and Departmental Objectives

KPMG examined the Commission's contribution to the attainment of Departmental policy objectives and PSA targets generally and specifically with regard to the Victims and Survivors (Northern Ireland) Order 2006.

At the time of the review, the Commission has not yet made a substantial contribution to government objectives regarding victims and survivors, especially given the financial resources expended.

However, it is useful to highlight that the establishment of a pilot Forum, which was enshrined in the legislation, was viewed as being a successful mechanism to ensure that the views of victims and survivors are sought.

The Commission is also supporting government in the design and establishment of the new Victims and Survivors Service. Its CNA, when complete, will be a valuable report and useful contribution to the development of the new Service. In the meantime, the Commission has continued to champion the needs of victims and survivors, challenging government in terms of timescales and progress in its establishment of the new Victims and Survivors Service. This may be of discomfort to OFMDFM but it is incumbent on the Commission to do so. The challenge for the Commission is to do so in a constructive manner, and one which supports OFMDFM in establishing a timely but effective Service. Furthermore, it is incumbent on the Commission to play a key role in assisting the Department to manage the process of change and the Sector's transition to the new Service.

Consultation with ministerial aides indicates that advice and reports submitted by the Commission have been welcome, in particular the recent CNA report. However, it was highlighted that it was important for advisory bodies, such as the Commission, to recognise that advice to government was that i.e. advice, which would help influence and shape the debate and enable Ministers to make informed decisions. The role of the Commission was to influence policy, rather than make

policy – which was the role of Ministers who would reflect on wider strategic considerations. This reinforces the training requirements as identified in 4.4.3.

4.6 Summary

A review of the Commission's performance suggests that its key contributions at the time of the review include the CNA report, the successful establishment of a pilot Forum and support and advice on the new Service for Victims and Survivors.

However, it is noted that the Commission has not performed as anticipated against its agreed Work Programmes, in part reflecting a lack of staff resources and requisite capacity initially but also suggesting areas for improvements in business planning and monitoring in the Commission,

Nevertheless, business planning and delivery against plans is anticipated to improve as the Commission has improved on its strategic planning, and is identifying and allocating staff resources alongside key activities. This approach also coincides with the Commission acquiring its full staffing complement including much needed research skills. Similarly, OFMDFM has become more robust in its critical scrutiny and oversight role. Together, these developments suggest that the Commission is better placed to ensure effective performance against its plans.

5 Governance and Financial Controls

5.1 Introduction

This Chapter outlines the governance arrangements in place within the Commission and specifically the reporting arrangements between OFMDFM and the Commission.

It looks at the following arrangements:

- The Management Statement and Financial Memorandum (MSFM)
- Board of the Commission
- Risk Management
- Liaison and reporting meetings.

It then provides an overview of the financial arrangements under which the Commission operates and considers the income and expenditure of the organisation over a two-year period.

The Terms of Reference for this review did not require us to undertake an audit of the Commission's internal control environment.

5.2 Management Statement and Financial Memorandum

An MSFM has been drawn up by OFMDFM in consultation with the Commission and with the approval of the DFP.

This document explains the broad framework within which the Commission should operate and sets out the financial provisions which the Commission is required to observe.

In terms of the Management Statement, it sets out the broad framework within which the Commission should operate, in particular:

- Its overall aims, objectives and targets
- The rules and guidelines relevant to the exercise of Commission's functions, duties and powers
- The conditions under which any public funds are paid to the Commission
- How the Commission is to be held to account for its performance.

The Management Statement sets out clearly the responsibilities and accountability of the First Minister and deputy First Minister, the AO and sponsoring team in

OFMDFM, the Commission(ers), and the Commission's AO and Consolidation Officer.

The Management Statement also provides clear stipulations for planning, budgeting and control, including reporting requirements and audit procedures. In addition, the document sets out the Commission's requirements concerning the recruitment, retention and motivation of staff.

The Financial Memorandum sets out certain aspects of the financial framework within which the Commission is required to operate. It explains the Commission's requirements and restrictions concerning income and expenditure, procurement, banking, fees, pensions and borrowing. It also provides guidelines on risk management and the avoidance of fraud, staffing and non-staff expenditure, the management and disposal of fixed assets and budgeting procedures.

This MSFM is a standard approach to establishing clear governance arrangements between OFMDFM and the Commission, and clearly sets out the "arms length" principle which applies between government departments and NDPBs.

5.3 Memorandum of Understanding

The Commission has developed a number of Memorandum of Understanding (MOUs) with various agencies such as the Historical Enquiries Team, the Commissioner for Children and Young People for Northern Ireland (NICCY), the Police Ombudsman's Office and the Northern Ireland Human Rights Commission.

These MOUs seek to enhance the effectiveness of each organisation, and for others to understand how each organisation functions. More importantly, they clarify the ways in which the Commission and other organisations deal with matters which fall within the overlap between their remits.

It is noted that no such MOU exists between the Commission and key organisations which provide funding to victims and survivors, to victims and survivors groups or to those organisations providing services to victims and survivors. The absence of MOUs with these bodies is a gap but, given the planned changes, MOUs should be drawn up with SEUPB and the Victims and Survivors Service when established.

5.4 The Board of the Commission

The Commission's Board comprises three Commissioners and the Board meets on a monthly basis. The Secretary to the Commission is the AO. The Head of Human Resources and Corporate Services and the Head of Policy, Research and Development attend meetings. Financial reporting is a standing item on the agenda. Minutes are maintained and posted on the Commission's website.

In assessing the composition of the Commission's Board, KPMG have taken account of the following guidance:

- The UK Corporate Governance Code, 2010⁸; and
- Corporate governance in central government departments: Code of good practice, July 2005⁹.

Both sets of guidance state that every organisation should be headed by an effective Board, which is collectively responsible for the operations of the Company. The UK Corporate Governance Code further states that there should be a clear division of responsibilities at the head of the company between the running of the board and the executive responsibility for the running of the company's business. No one individual should have unfettered powers of decision.

Regarding the Commission's Board, there are good governance arrangements in place in the Commission in respect of clear division of responsibilities between the collective running of the board and the executive responsibility for the running of the Commission's activities on a day-to-day basis, with no one individual having unfettered powers.

However, the current composition of the Board is unbalanced as it does not include an appropriate combination of Executive and independent Non-Executive Directors so that no individual or small group of individuals can dominate the Board's decision taking. Both sets of guidance advocate that a Board should include independent non-executive members to ensure that executive members are supported and constructively challenged in their role.

Furthermore, there is a lack of evidence contained in Board minutes to indicate that there is sufficient substantial discussion or robust critical challenge exercised, especially in light of the Commission's performance against Work Programmes (as detailed in Chapter 4) and/or the resulting financial under-spend, or that there is substantial discussion on strategy i.e. how the Commission can make a difference and how it can use its statutory authority to improve coherence among individuals and groups of/for victims and survivors and best use of resources.

As previously noted, the Commission was established with four equal Commissioners. However, at the time of the review, there has been an informal arrangement for each Commissioner to rotate as Chair, with each serving one year¹⁰. While this was a sensible and practical arrangement, consultation with the Commissioners and Commission staff would suggest that it worked less well in practice, resulting in a lack of critical challenge in the Board, especially on progress on its yearly Work Programme.

Current governance arrangements also give rise to inherent tensions in the Board, between the role of the Commissioners and the AO. The MSFM clearly sets out the roles of the Commissioners in formulating strategy and the AO in establishing corporate and business plans¹¹.

⁸ <http://www.frc.org.uk/documents>

⁹ http://www.hm-treasury.gov.uk/psr_governance_corporate.htm

¹⁰ Resignation and long-term sickness has affected these arrangements meaning that, with the exception of the first year, the Chair has rotated more frequently than initially anticipated.

¹¹ This approach was taken in light of there being a Commission with four equal Commissioners and a requirement for one AO.

However, a number of factors, including a lack of consensus among the Commissioners, the Commission's business planning capacity, underperformance against Work Programmes at the time of the review and lack of critical challenge within the Commission have led the Secretary to take a more robust approach to her role. The Commissioners and AO have all acknowledged that this has led to an increase in tensions on occasions in terms of the role of the Secretary and the roles of the Commissioners. At the same time, there has been acknowledgment that the Secretary's input to business planning is resulting in more realistic plans and timescales for activities.

In terms of clarity of roles, KPMG note that Commission staff have detailed Personal Performance Agreements/Personal Development Plans (PPAs/PDPs) setting out their objectives and required competencies. A similar approach should be adopted for the Commissioners, with core competencies linked to the Professional Skills for Government (PSfG) competency framework. KPMG recommend that each Commissioner should have a separate PDA/PDP and these should be developed as a priority for this new financial year. PDAs/PDPs should form part of the evidence for the performance review process.

The Board has recognised the weaknesses within its current governance arrangements, recognising that the provision of a rotating Chair has not worked as satisfactorily as anticipated and that having four and then three equal Commissioners has resulted in a lack of critical challenge within it.

The Commission's Audit and Risk Committee (ARC) and OFMDFM have recommended the appointment of a Non-Executive Director to the Board in order to ensure that executive members are supported and constructively challenged in their role.

At the time of the review, the Commission has agreed a proposal to appoint a Non-Executive Director. It is proposed that this would be a three-year appointment, as this will ensure continuity of Board members if new Commissioners are appointed after the first term of office. This would incur costs of approximately £6k per annum.

The current corporate governance arrangements should be strengthened, as evidenced by the three successive unachieved Work Programmes produced, lack of robust monitoring against plans and effective performance against these. KPMG would support the recruitment of a Non-Executive Director as being good governance practice and one which will ensure that executive members are supported and constructively challenged in their role. KPMG recognise the financial costs incurred but consider this would represent value for money, as it would improve planning and performance in the Commission ultimately ensuring the Commission represented value for money. Furthermore, KPMG recommend that the recruitment specification emphasises governance skills, specifically strategic business planning skills (not sectoral knowledge), to ensure an appropriate and balanced skill mix and to enable the Board to satisfactorily discharge its corporate responsibilities. The focus on the necessary skills set required (for this post) would be entirely in keeping with the Code of Practice for Ministerial Public Appointments in Northern Ireland.

OFMDFM has received legal advice on this matter which has endorsed this approach. Therefore, KPMG recommend that the Commission should progress with the appointment of a Non-Executive Director as a priority.

The current proposal indicates that there will be an annual assessment of the Non-Executive Director's performance throughout their period of appointment. KPMG consider that this is an essential element and recommend that this assessment is evidence based and is conducted annually in order to both ensure good governance and demonstrate value for money for this post. Normally, this assessment would be conducted by the Chair and, in the case of the Commission, this should be done by the Acting Chair supported by the remaining Commissioners.

Furthermore, as noted in 4.4.3, KPMG consider there is a need to improve on the skills capability of the Board and, while the recruitment of a Non-Executive Director will help in this regard, KPMG recommend that a skills audit is conducted with the Board and appropriate training put in place.

5.5 Risk Management

5.5.1 Risk Management Strategy

The Commission has developed a Risk Management Strategy to ensure that identified threats and opportunities are managed effectively. The Strategy sets out procedures on identifying risks (which are recorded in the form of a Risk Register), assessing and rating risks, addressing these risks and reviewing and reporting risks. This Strategy has been informed by the work of ARC. Its internal audit plan reflects a risk-based approach.

5.5.2 Audit and Risk Committee

An Audit and Risk Committee has been established to provide a means of independent assurance and independent review of the Commission's financial systems, financial information and internal control mechanisms. The Committee is responsible for advising the Commission and AO on a range of standard issues regarding governance, audit and accounts. This is in line with good corporate governance practice.

The Committee consists of three independent members, and the Chair is a qualified accountant. In addition, representatives from the Northern Ireland Audit Office, OFMDFM and the Internal Auditors attend. There are clear terms of reference for the Committee, an annual work programme and information requirements and it meets four times a year. Financial reporting is a standard item on the agenda.

A review of minutes of this Committee (the first meeting was held in November 2009) indicates that the Members have taken a robust approach to risk, and it is noted that the Committee highlighted risks regarding some of the work undertaken by the Commission (notably casework), highlighted reputational risk to the Commission if it did not meet its Work Programme and the potential negative

impact of financial under-spend on future budget provision. The Committee has recommended a monthly reassessment or review of priorities by Commissioners. As noted, ARC has highlighted and recommended the appointment of a Non-Executive Director to the Board.

5.5.3 External and Internal Audit

The Commission's annual accounts are audited by the Northern Ireland Audit Office on behalf of the Comptroller and Auditor General.

The Commission has an appointed internal auditor to ensure that the Commission is given independent assurance that risk management processes, control systems, accounting records and governance arrangements are in place and operating properly.

The Terms of Reference for this review did not require us to undertake an audit of the Commission's internal control environment. However, KPMG note that the Commission has made progress in putting financial processes and controls in place. Furthermore, its internal and external audit arrangements have resulted in a series of recommendations which have led to the refinement of and improvements in internal controls. Consultation with OFMDFM indicates that they are satisfied with the progress being made by the Commission in this regard.

5.6 Reporting Arrangements between the Commission and OFMDFM

5.6.1 Arms Length

An "arms length" principle applies between OFMDFM and the Commission which means that Ministers set the Commission's legal and financial framework and the structure of its funding and management and the Commission determines its policy and activities in light of its statutory duties.

However, the MSFM sets out a series of formal mechanisms for reporting between the Commission and OFMDFM. This includes the following:

- The Commission agrees corporate, business and work programmes with OFMDFM (and DFP).
- The Commission provides quarterly forecasts and monitoring information on performance and finance to OFMDFM.
- The Commission is obliged to produce an annual report of its activities and performance against targets during the previous financial year, together with audited annual accounts. In this report, CVS must also set out in summary form its forward plans.
- The AO is required to inform OFMDFM of the Commission's progress in achieving its policy objectives and in demonstrating how resources are being used to achieve those objectives.

- The Head of the Civil Service (HOCS) meets with the Commissioners each year to discuss their performance (and a similar arrangement exists for other sponsored NDPBs).

KPMG consider that this is a standard yet robust approach and should be sufficient for OFMDFM to monitor and, as the sponsoring department, ultimately to be accountable for the Commission and its contribution to government objectives. However, KPMG also note that the effectiveness of such arrangements is determined by the robust and timely implementation of reporting mechanisms.

5.6.2 Reporting Mechanisms

A series of contact and liaison meetings has taken place with OFMDFM and consultation with OFMDFM indicates that they consider that these have been a useful forum for the sharing of information between the Department and the Commission, and for providing updates on strategic issues affecting victims and survivors.

In terms of monitoring the Commission, the Department has provided commentary on proposed plans and outturn / progress reports. Initially, this was not done on a sufficiently timely or robust manner but this has improved.

Furthermore, as noted in Chapter 4, consultation with the Commission recognises that the Department has taken a more robust and critical approach to performance monitoring. This in turn has resulted in the Secretary being more robust in her role as AO in developing and being able to deliver on a realistic Work Programme. This is a positive development and should help ensure that the Commission is successful in meeting its Work Programme in 2011/12. It potentially means there are increased tensions between the Commissioners and the Secretary. However, the cumulative impact of a series of actions should help mitigate against this. These include, allocation of SRO to tasks/activities, the recruitment of a Non-Executive Director to present more critical challenge, increased monitoring against plans and more robust scrutiny from OFMDFM.

5.6.3 Performance Reviews

At the time of reporting, there had been one series of performance reviews between HOCS and the Commissioners where the performance of each Commissioner for 2008/2009 was deemed to be satisfactory. This was set within the context that it was the first year of the Commission, taking account of the challenges in establishing a new NDPB and that it did not reflect a full 12 months¹².

At the time of the review, KPMG understands that performance reviews for the Commissioners for 2009/10 had been considerably delayed, although were planned. It is essential that performance reviews are conducted on a timely basis.

KPMG have noted the lack of PPAs/PDPs for Commissioners which, linked to the PSfG competency framework, would be helpful in clarifying roles, responsibilities and accountabilities. KPMG also queried, at the time of the review, if it would be

¹² The 2008/2009 work programme covered the period from June 2008 to March 2009.

more appropriate for performance reviews to be conducted by a Grade 3 in OFMDFM, who would be more informed of the specific achievements of the Commission. (KPMG understand that this is now the case).

5.6.4 Relationships between OFMDFM and the Commission

Consultation indicates that there has been, at the time of the review, a relatively positive and healthy relationship between the Department and the Commission, with the Department seeing the Commission as a valued and strategic partner and their engagement as one of collaborative partnership.

However, there are, as should be, some inherent and healthy tensions between both, as a function of the Commission is to hold government to account. This tension was evident at the time of the review as the Department faced some challenges in establishing its Service for Victims and Survivors on time.

5.7 Financial Controls

KPMG examined a range of documents relating to the financial arrangements of the Commission. These included:

- Annual Report and Accounts for the Commission
- Internal Audit reports
- External Audit report.

Funding is provided to the Commission in the form of grant-in-aid which is paid to the Commission in monthly instalments, based on a written application from the Commission showing evidence of need. This written application process has become more robust and more detailed following recommendations by OFMDFM. Consultation with the Department indicates that satisfaction with this process and that the Commission has responded positively to its recommendations. Grant-in-aid not drawn down at the end of the year lapses.

With regards to expenditure, the Commission is permitted to incur expenditure without further permission for OFMDFM once the budget has been approved. This expenditure is subject to the delegated limits and authorities set out in Tables 4-6.

Table 4 Delegated Limits

Delegated Limits	£
Goods, Services & Works	30,000
Capital Projects	-
Leases & Rental Agreements	30,000
IT	10,000
Consultancy	5,000
Losses & Special Payments	1,000

Source: OFMDFM

Table 5 Delegated Authority for the Purchase of Goods and Services

Thresholds (exc. VAT)	Requirements	Authorisation
Up to £1,000	1 or 2 Oral Quotations depending on the need to have a price comparison (fax or email confirmation should be obtained)	The Commission
£1,000 - £10,000	3 Selected Tenders	The Commission
£10,000 - £30,000	4 Selected Tenders	The Commission
Over £30,000 (When over the EC threshold observe the EC threshold guidelines)	Publicly advertised open competition or restricted tender competition	The Commission plus advice and approval from OFMDFM

Source: CVS Management Statement and Financial Memorandum

Table 6 Delegated Authority for Information Technology Projects, Systems and Equipment

Thresholds (exc. VAT)	Requirements	Authorisation
Up to £500	No special requirement	The Commission
£500 - £5,000	2 written quotations/tenders	The Commission
£5,000 - £10,000	3 written tenders	The Commission
£10,000 - £25,000	4 written tenders	The Commission plus advice and approval from OFMDFM
£25,000 - £50,000	Open tendering secured by public advertisement	The Commission plus advice and approval from OFMDFM
Over £50,000 (When over the EC threshold observe the EC threshold guidelines)	Open tendering secured by public advertisement and full economic appraisal and business case	The Commission plus advice and prior approval from OFMDFM

Source: CVS Management Statement and Financial Memorandum

Regarding management consultants, the Commission has authority to appoint consultants for a single contract without recourse to the sponsor Department up to a total cost of £5,000 and subject to any guidance as may be issued by DFP or the sponsor Department.

5.8 Management and Financial Reporting

Outturn reports and financial reports are submitted in advance of Board meetings. These reports include a summary of performance against the Work Programme analyse expenditure occurring in the year to date against budget and highlight any variances against this and reasons.

The Commission's performance is reported to OFMDFM on a three-monthly basis. Update meetings between officials of OFMDFM and the Commission also take place on a three-monthly basis.

The Commission publishes an annual report of its activities, together with audited annual accounts at the end of each financial year. A draft of the report (including the Statement of Internal Control) is also submitted to OFMDFM before the final report.

5.8.1 Internal Audit

Internal audit services for the Commission are provided by an external provider to ensure that the Commission is given independent assurance that risk management processes, control systems, accounting records and governance arrangements are in place and operating properly.

The Head of Internal Audit for the Commission presents an annual Internal Audit Plan to the Audit Committee as well as an annual Internal Audit Report. In addition, the Audit Committee is presented with a quarterly Internal Audit Progress Report.

KPMG have relied on the Internal Audit reports produced for the Commission by their appointed internal auditors and have not conducted any other detailed review of the internal financial processes of the organisation. Analysis of Internal Audit Reports indicates that there have been 30 recommendations made by Internal Audit relating to purchasing and procurement, casework, service level agreements, forum expenses and hospitality and gifts. All recommendations have been accepted and the overall number reflects the development and refinement of the Commission's internal processes. Two internal audit reports have been completed at the time of the review, resulting in satisfactory ratings in the areas of gifts and hospitality and forum expenses.

5.8.2 External Audit

The Commission's annual accounts are audited by the Northern Ireland Audit Office on behalf of the Comptroller and Auditor General. The audit results for year ending 31 March 2009 resulted in the auditors providing an unqualified audit opinion. The audit identified five recommendations, all of which were accepted and implemented by the Commission.

5.9 Financial Analysis

5.9.1 Expenditure

Table 7 shows a breakdown of the Commission's expenditure between 2008/09 – 2009/10.

Table 7 Actual Expenditure 2008/09 – 2010/11

Expenditure Heading	2008/09*	2009/10**	2010/11**
Commissioners' fees	£300,508	£356,869	£273,989
Staff Salaries	£174,089	£376,881	£392,930
Operating Costs	£112,696	£375,047	£234,255
Programme Costs	£52,460	£116,409	£126,584
Total	£639,753	£1,192,564	£1,027,755

Source: *The Commission's Annual Accounts; data reflects 10 months; **written correspondence from the Commission

Salient points are:

- Expenditure increased substantially from 2008/09 as the Commission became fully established.
- Commissioners' fees and staff salary costs account for around two-thirds of total expenditure over the period. Overall salary costs increased as the Commission increased its staffing complement. However, Commissioners' fees have decreased from almost half of total expenditure in 2008/09 to approximately a quarter in 2010/2011, and correspondingly, staff salaries have increased from almost 30% to almost 40% of expenditure over the same period reflecting a more appropriate balance of Commissioners to staff resource.
- Operating costs increased substantially from a relatively low base in 2008/09 and reflect a substantial increase in accommodation costs as the Commission moved into more permanent premises, as well as costs such as IT, and travel and subsistence.

The Commission has participated in a Shared Services review which has recommended that the Commission vacates its Windsor House premises when its current lease expires (December 2012) and relocates to Equality House. This will result in decreased premises costs.

More pertinently, KPMG know from a review of available documents that the Commission has had an under-spend on Programme Costs in each of its three reporting years as follows: around £55,000 in 2008/09; £90,136 in 2009/10; and £222,295.00 in 2010/11. This was because some planned activities in the Work Programmes did not progress.

Consultation with OFMDFM confirmed that the Commission has surrendered money each year, and has often done so late in the financial year and after challenge from the Sponsorship Branch. This indicates a lack of robust financial planning and monitoring in the Commission and suggests financial and performance information has not been utilised effectively to support the Commission to meet all of its planned Work Programme activities. This reinforces comments in Chapter 4 regarding a lack of robust evidence of effective monitoring against Work Programmes.

As noted previously, ARC highlighted reputational risk to the Commission if it did not meet its Work Programme and the potential negative impact of financial under-spend on future budget provision.

Consultation with the Commission indicates that the Commission recognises the importance of meeting its Work Programme and on managing its budget effectively, and the organisation has put in place more robust processes to ensure effective planning and management of budgets. This, together with the development of realistic work plans and the recruitment of a Non-Executive Director, will help ensure more robust scrutiny and reduce the potential for any under-spend or over-spend.

5.10 Good Practice

The terms of reference for this review required KPMG to comment on examples of good practice in the delivery of the Commission's functions, and to document evidence of the systemic use of quality schemes such as EFQM Excellence Model®, Charter Mark and Investors in People.

At the time of the review, the Commission has focused in establishing its internal processes and controls, and refining these through its formal audit processes. Therefore, it has not embarked on any quality schemes. This is to be expected and KPMG do not consider this a criticism of the Commission.

Furthermore, KPMG recommend that the Commission's focus in its fourth year is on the achievement of its current 2011/2012 work plan. However, at a future date, the Commission may wish to consider if an investment in a quality scheme will have a positive impact on its outcomes and impact.

6 Consultation Findings

6.1 Introduction

As part of the review process, consultations were undertaken with a range of stakeholders who have an interest in the work of the Commission.

6.2 Stakeholders

Discussions with consultees varied in accordance with their knowledge and interaction with the Commission and whether they were an individual or a representative from an organisation.

However, the following key questions summarise the consultation topics:

- How well the Commission has performed to date in terms of:
 - Promoting awareness and safeguarding the interests of victims and survivors
 - reviewing the adequacy of services
 - advising government and other bodies
 - consulting with victims and survivors.
- Has the Commission made a positive difference? And if so, what has it achieved?
- What changes or improvements could be made to the Commission?
- Any other comments.

6.3 Overview

Findings from consultation interviews and focus groups have been categorised and analysed according to emerging themes.

It must be stressed that these findings are the comments and subjective views of stakeholders and KPMG cannot verify their factual accuracy.

In addition, consultees ranged from representatives of strategic organisations to individual victims and survivors. This meant that the range of engagement with the Commission, level of interface and knowledge of the Commission and its work varied across consultees. This needs to be considered in the interpretation of findings.

It is important to highlight that the views presented represent the commonly expressed views of stakeholders.

Also, given the relatively small number of representatives consulted, care should be taken in the interpretation and assessment of findings.

In the main, KPMG have reported on key findings where these were commented on, or expressed, by more than one consultee, or, in the case of a single comment, where this explains or elaborates further on commonly expressed views.

All consultees were assured of confidentiality and informed that findings would be aggregated and reported on by key findings and common themes.

All consultees spoke openly and honestly, being exceptionally frank in their views and comments. It is KPMG's considered view that, while stakeholders represented a spectrum of views from across the victims and survivors arena, none were overtly politically motivated, i.e. there was little evidence that a Commissioner from any one perceived background was singled out for criticism.

6.4 Consultation Findings

The following provides a synopsis of the key findings from the consultations.

6.4.1 Performance

While stakeholders expressed a range of views on the performance of the Commission and Commissioners, the most commonly held view was one of disappointment at the performance, activities, outcomes and impact of the Commission at the time of the review. This was presented very vocally in many instances, and especially so among some victims and survivors.

In reaching this conclusion, several stakeholders referenced that the Commission was late in producing key reports, notably the CNA, and that initial work on the CNA, an Initial Literature Review of The Needs of Victims and Survivors, resulted in a poorly received report. Some were unaware of any outputs or perceived achievements.

Several stakeholders considered that the Commission had not made any significant positive changes to promoting the interests of victims and survivors and this view was more pronounced in some consultees who considered themselves victims and survivors than in representatives from organisations. This could reflect that representatives from organisations were more aware of some of the outputs from the Commission, or that individuals' expectations were much higher.

A small number of stakeholders emphasised a very clear distinction between the office (and performance) of the Commission and the Commissioners, noting the outputs achieved since the Commission achieved its full staffing complement, including those with research skills. This is a positive finding as it suggests that staffing resources have been utilised effectively and have had a positive impact on the Commission's performance and its reputation for some stakeholders. Stakeholders spoke of being "hugely impressed with the staff", and of them "taking a good approach to the work they are being asked to do".

Despite some very positive comments regarding the staff, it is highlighted that some stakeholders were critical of the Commission's staffing base (and associated salary costs). However, this was placed within the context of "fury" regarding the

salaries for four Commissioners and the perception of very little output from the Commission to justify such expenditure, and the sense that individuals and victims and survivor groups faced substantial challenges in obtaining what they perceived to be minimal financial support.

6.4.2 Knowledge of the Commission and Communication

Some stakeholders were unclear on what the Commission has done and what it has achieved since its establishment which could, in part, reflect a lack of effective communication.

While some stakeholders were aware that information was posted on the Commission's website, it was suggested that this was not always the most appropriate way to disseminate information as many victims and survivors had no or limited access to the internet or lacked IT skills to navigate around web-pages.

Others pointed to inconsistency in the Commission's public statements e.g. statements on some events but not on others. This feedback could reflect on the insufficiency of the Commission's communication and stakeholder engagement strategies as they existed at the time of reporting.

6.4.3 The Forum

Most stakeholders who expressed a view were positive on the establishment and achievements of the pilot Forum as a mechanism to facilitate consultation and discussion with victims, and provide advice to the Commission. A small number of stakeholders described the establishment of a pilot Forum as the "single biggest achievement" of the Commission at the time of the review.

Overall, stakeholders were positive on its "relative success", recognising that the Forum helped to develop productive relationships and progress dialogue that otherwise would not have happened. One stakeholder suggested that it "moved the discussion and debate a long way". Some suggested that the dialogue within the pilot Forum had led to some increased dialogue within families and in the wider community.

The pilot Forum was suggested as being a place for serious engagement and a platform to offer advice to the Commissioners and give them greater insight into issues, and that the make-up of its membership had given a voice to some individuals who otherwise would not be heard.

Similarly, most members of the Forum Transition Group (FTG) consulted were positive on the Forum, highlighting it had facilitated "democratic and open debate" and produced a range of advice papers. However, these representatives were critical of the perceived bureaucracy in establishing a formal Forum, which had been delayed from March 2010 to October 2011. They also expressed disappointment in a lack of a press/media strategy to highlight the positive progress being achieved by the Forum.

More positively, the facilitation skills of the Commissioners were praised by several stakeholders who commented on their “sensitive and considerate skills”, reflecting that they had both the intellectual capability and the people skills to support members during testing conversations and dialogue.

However, several stakeholders were critical of the selection process, describing that members were “hand-picked” by the Commission. The view expressed was that this was not full, open and transparent and, furthermore, replicated the lack of transparency over the appointment and selection process for the four Commissioners.

Notwithstanding the above, many of those with a detailed understanding and insight of/into the Forum were broadly positive of the Commission’s overall success in establishing a Forum that was “politically very broad” and “laid the groundwork for relationships in the Forum to grow”. However, it was suggested strongly that a future Forum needed legitimacy otherwise it was liable to advocate without authority, and that such legitimacy could only be achieved by an open and transparent public recruitment process.

KPMG understand that, at the time of the review, the Commission is developing a business case for the establishment of its Forum and this business case will consider the appointment process.

6.4.4 Sensitivity

A notable number of stakeholders, from across different dimensions, indicated a lack of sensitivity and understanding from the Commission on various occasions and cited examples of how the behaviours, actions and perceived lack of professionalism of the Commission had upset some organisations within the victims and survivors sector and/or individual victims and survivors. This is notable not only as it was highlighted so frequently, but also because it is taken as a given that victims and survivor issues are hugely sensitive.

By way of example, a notable number of stakeholders highlighted that the Commission had made an application for Peace III funding for a story-telling project¹³ which was perceived to, in effect, place the Commission in direct competition for funding with voluntary and community groups. Stakeholders highlighted that funding for the sector is always precarious. Stakeholders also highlighted that if this project was core to the Commission’s work then it should have been funded through grant funding from OFMDFM. Stakeholders suggested that the fact that the Commission made such a funding application demonstrated its lack of understanding of the sector and some of its issues.

Several stakeholders highlighted that initially, some public meetings with victims and survivors were often held in premises which were inappropriate (e.g. lack of hearing systems), and there was no evidence of on-site counsellors. This latter support facility was provided in later meetings/events. Some stakeholders also cited examples of “tactlessness” demonstrated by the Commission, which they

¹³ In the event, this application to SEUPB was unsuccessful.

considered demonstrated a lack of empathy and sensitivity to individual victims and/or specific groups.

Some stakeholders indicated there was a need for the Commission to respect victims' opinions which may be contrary to the Commission's views. The suggestion here was that Commission did not respond appropriately when strong views were expressed that differed from the Commission's, and that the Commission did not take on board views or advice that was contrary to its own. Again, this reflects the sensitivity and complexity of the issues associated with Northern Ireland and with victims and survivors and of differences in interpretation, understanding and agreed actions. However, it also suggests there is scope for the Commission to consider its engagement with its stakeholders.

It is recommended that OFMDFM develops a Code of Conduct for the Commission defining the standards of personal behaviour to which Commissioners are required to subscribe. In their role as Commissioners, Commissioners deal with very sensitive and intricate information and a Code would help to make sure that they would deal fully and sensitively with all stakeholders. In addition, a Code would help to make it clear how potentially conflicting interests are to be raised and dealt with appropriately.

6.4.5 Casework

Concerns were expressed in some quarters regarding casework being undertaken by the Commission. This work was described by more than one commentator as "dabbling" especially with very vulnerable people.

Throughout this period, the Commissioners have been available to individuals and groups, and have undertaken an advocacy role for them. This has been an understandable approach, but such an approach has a number of inherent problems:

- There is a risk that the Commission becomes involved in specific individual cases at the expense of dealing with strategic issues which affect many victims and survivors.
- Victims' and survivors' expectations may be raised, unrealistically in many cases.
- The Commission is dealing with, in some cases, very vulnerable people, without the requisite skills and capacity and there is no supporting infrastructure in the Commission e.g. professional supervision arrangements.

It is recognised that the Commission has put in place some protocols and signposts people to alternative services and supports. The Commission should give detailed consideration to its engagement with individuals. It should develop a detailed and comprehensive strategy for stakeholder engagement together with a series of MOUs between the Commission and key relevant agencies including funding bodies. KPMG's view is that the Commission should not undertake an advocacy role for individuals unless there is a clear policy or strategic rationale for doing so.

6.4.6 Need

In the main, most stakeholders considered there was a need for a Commission for Victims and Survivors, although it should be highlighted that the most vocal opponents to this were mainly individual victims and survivors who could see no measurable benefit for them or other victims and survivors.

Of these who considered there was a need, most saw the Commission's role as being a champion and advocate for victims and survivors, with several comparing it to that of the role of the Commissioner for Children and Young People for Northern Ireland.

It was also suggested that the Commission had a role to play in the following:

- Supporting victims and survivors and by bringing precision to the work undertaken by the organisations supporting them
- Advocating for policy change as advised by the views/working of the Forum
- Monitoring the effectiveness of the new Service for Victims and Survivors.

6.4.7 Four Commissioners

Stakeholders expressed substantial views on the number of Commissioners.

The appointment of four Commissioners was perceived to be a political decision by the majority of stakeholders. This was a strongly articulated view by many stakeholders.

Some stakeholders considered that the appointments process had marred subsequent events, "*the row over their appointment never went away*" while others saw the appointments as "*a huge distraction*". Some questioned the value for money associated with four Commissioners, with some suggesting this money would have been more effective if put into victims and survivors groups while others suggested research capability within the Commission.

However, it is worth highlighting two points:

- There were few comments or suggestions that any of the four Commissioners had acted in any overt political manner.
- No stakeholder suggested there was any reluctance for any one individual or group to work with or deal with any one Commissioner. Rather, many suggested they would work with anyone in order to support victims and survivors.

Some stakeholders suggested that the sheer number of Commissioners had impacted negatively on the effectiveness of the Commission suggesting that there had been "conflict" and "power struggles" which resulted in "pet projects", "silo working" and "lack of timely decisions" to cite some comments. More positively, several suggested that they considered the Commission was working more effectively with, in effect two Commissioners, although it was recognised that this

timeframe coincided with the Commission's staff settling into post and being seen to deliver on some outputs.

Nevertheless, it is highlighted that all stakeholders were critical of the decision to appoint four Commissioners and none suggested there were any tangible benefits from doing so.

6.4.8 Summary

Overall, most stakeholders expressed disappointment in the performance of the Commission at the time of the review. However, it is positive to note that many recognise that the Commission is beginning to perform and most support the case for its continuation.

7 Conclusions

7.1 Value for Money Considerations

In considering an overall assessment of Value for Money, KPMG have considered the following three evaluation criteria and results:

- Effectiveness – the extent to which the Commission has met its objectives; and how it contributes to the delivery of wider government objectives
- Economy – an assessment of whether the most appropriate inputs have been secured and used on a least cost basis
- Efficiency – whether the maximum output been achieved from the given set of inputs i.e. whether the expenditure achieved the maximum possible levels of output and impact.

7.2 Effectiveness

Chapter 4 has discussed the Commission's performance and outputs as measured against its Work Programmes for the period 2008-2011.

This indicates that the Commission has been challenged in delivering on its key tasks and activities within timescales.

Consultation with stakeholders indicates most are disappointed with the performance of the Commission at the time of the review, although many recognise that, as a new body and with four equal Commissioners, it faced substantial challenges initially and that it is beginning to perform more effectively as its staffing base has increased.

In terms of responsiveness, feedback from most stakeholders would suggest that the Commission has had variable success in maintaining the focus of the remit of its Office and that it could be more responsive to their needs and requirements, with many highlighting a need for it to be a much stronger and visible advocate.

Therefore, on its performance over almost three years, from 2008 to 2011, KPMG must conclude that the Commission has not been as effective as first envisaged.

In part, this reflects its initial set-up with four Commissioners and low staffing base, but it more fundamentally reflects a lack of strategic planning and monitoring in the first three years, resulting in overly ambitious plans which lacked sufficient scoping and which could not be fully delivered, especially given the available staff resources.

7.3 Economy

Chapter 5 indicates that a substantial proportion of funding is apportioned to staff costs, which includes salary costs for three (initially four) Commissioners.

While KPMG have not undertaken a formal job evaluation of the posts of Commissioner, KPMG recognise that the salary scale reflects the strategic role and responsibilities associated with the post(s) and is benchmarked with comparable posts in similar organisations. Staff salaries are broadly comparable to similar posts in NDPBs.

However, KPMG have found no evidence that there has been value for money achieved with having more than one Commissioner, based on an assessment of performance at the time of the review and stakeholder feedback identifying the issues and challenges associated with having four and then three Commissioners.

The “right balancing” of staff resources to Commissioners coupled with an improvement in its performance in Year 3 suggests that the Commission is better placed to achieve greater economies in the future and its proposed move to Equality House in 2013 will also help in this regard.

7.4 Efficiency

In assessing if the maximum output has been achieved from the given set of inputs, KPMG consider that the Commission has not been fully efficient.

The Commission was established in June 2008 with four Commissioners in post and two temporary staff and the full staffing complement was not achieved until January 2011. Key research capability was not achieved until 2010 and lack of research skills had a notably negative impact on the achievement of specific tasks.

In part, this reflects the role of OFMDFM in establishing the Commission. A key question is whether the Commission would have been more effective from its first formation if it had been set up in shadow form initially, giving time for staff to be recruited and internal administrative systems established. This may be a matter for OFMDFM and other government departments to consider if setting up any new entity.

A more pertinent issue, and one which reflects on the Commission, was the persistent under-spend and hand-back of programme monies which the Commission was unable to spend due to a lack of/no progress with specific work programme tasks.

It is regrettable that, in a challenging fiscal climate, and when a perceived lack of funding for its key constituent group is a substantial issue, the Commission was successful in securing funds but subsequently unable to utilise this money. Again, this reflects strategic planning and performance issues in the Commission, and notably, that its performance was not inhibited due to a lack of funds.

KPMG must conclude that, based on secured funds, the Commission did not achieve the maximum possible levels of output and impact.

7.5 Value for Money

The conclusion on value for money is very clear and very stark.

It is KPMG's overall assessment that, given its level of grant funding and lack of sufficient performance against its key aims and targets at the time of the review, the Commission cannot be said to have provided value for money to OFMDFM or indeed the wider public purse in its initial three years.

Specifically, in relation to the number of Commissioners, the evidence would suggest that the number of Commissioners actually mitigated against achieving value for money, both in terms of the costs incurred and contribution to making a positive difference.

7.6 Relationships

In terms of relationships with its stakeholders, the Commission has engaged in a variety of means to engage with and develop positive relationships.

7.6.1 Victims and Survivors

Many stakeholders saw the Forum as being a positive and effective means for the Commission to engage with victims and survivors, although some victims and survivors, as well as other stakeholders, expressed a need for transparency over recruitment and appointment to the Forum. KPMG would support this view as the Forum represents the main mechanism for engagement and it is important that it has an inherent legitimacy.

In terms of relationships with individual victims and survivors, it is important to note that the number of victims and survivors expressing a view was very small. However, consultation with some victims and survivors stakeholders who had engaged with the Commissioners on an individual basis and/or attended public meetings indicated a lack of satisfaction. This may have been in part due to unrealistic expectations from victims and survivors regarding their own personal circumstances and ability of the Commissioners to resolve issues, but also reflects some victims and survivors perceived lack of sensitivity from Commissioners.

7.6.2 OFMDFM and Ministers

Chapter 5 highlights that relationships are well established between OFMDFM and there is, on balance, a healthy tension between them. However, it is noted that the relationship between the Department and the Commission could become more fraught as each is challenged in delivering on their key tasks. This will mean that a high level of constructive and collaborative association is required to ensure positive working relationships.

There has been a series of meetings between the Commission and Ministers and consultation indicates that advice and reports have been welcomed. Furthermore, Ministers have used these meetings to stress the importance of the need for the Commission to deliver on the key activities in its Work Programme, for example, the CNA.

7.6.3 Non-Governmental Organisations (NGOs)

The Commission has established relatively positive working relationships with a range of NGOs and has developed a series of MOUs with some key agencies. However the Commission has no MOU between the Commission and CRC, NIMF or SEUPB, all of whom represent key funding to victims and survivors and victims and survivors groups and organisations providing services. The absence of MOUs with these bodies is a gap. Given the planned changes, it is recommended that an MOU should be drawn up with SEUPB and the Victims and Survivors Service when established in order to clarify roles and responsibilities, especially in those areas which fall within the overlap between the remits of both organisations. In addition, the Commission may wish to consider other bodies with which it would be advisable to develop an MOU.

7.6.4 Statutory sector and the Voluntary and Community sector

Relationships with the Statutory and Voluntary and Community sectors have been established through consultation and engagement with the TAPS and meetings with individual groups. It was clear from the stakeholder consultation that this relationship has been negatively impacted by events surrounding an initial review of TAPS and the resulting report, and overall the relationship could be described as fraught on occasions. There is undoubtedly a need for relationships to improve and this will be helped by a genuine willingness for all to work together to ensure the needs of victims and survivors are met.

As noted in Chapter 4, the Commission developed a Communications Strategy and a Strategy for Stakeholder Engagement. KPMG recommend that the Commission revisit these strategies to improve on them, to set clear performance indicators and identify a means of evaluating their impact. This will mean ensuring that they are implemented on a consistent basis.

7.7 Conclusions

Ultimately, any review of the performance of the Commission must look at two fundamental questions:

- If, and how, has the Commission made a positive difference;
- If, and how, it has used its statutory authority to improve coherence among individuals and groups of/for victims and survivors and achieved best use of resources.

KPMG's assessment, based on all of the evidence documented in this report, would suggest that the Commission, at the time of reporting, has not had the impact anticipated.

Specifically, there is little tangible evidence that the Commission has made a positive difference at the time of the review and limited evidence that it has increased coherence among individuals and groups of/for victims and survivors and made best use of resources.

It is worth highlighting that these reflect long-term objectives for the Commission, and it is likely that the Commission's impact in this regard will be much more tangible in the future. This will be very dependent on an improvement in the Commission's ability to develop robust but challenging plans, on more effective planning and monitoring of performance and on actual achievement of all activities.

However, KPMG are encouraged that the Commission is making improvements to its planning and monitoring function, it has invested in its skills base and there is recognition in the Commission that its performance must improve.

8 Requirement and Future Delivery

8.1 Overview

This section concentrates on two fundamental questions which must be considered by this review:

Fundamental Questions

Are the services currently being delivered by the Commission required in the future?

And if so,

Is there a requirement for NDBP status to be maintained or are there alternative organisational options?

8.2 Requirement for the Commission

8.2.1 Key Questions

In assessing if the Commission's services are required in the future, KPMG have considered the following:

- Is it essential to Government and Departmental policy objectives?
- Is there sufficient demand from stakeholders?
- Would providing a Commission and its services be a justifiable use of taxpayers' money?
- What would happen in the absence of a Commission?

8.2.2 Responses

The Commission was established with the principal aim to promote the interests of victims and survivors of the conflict and has six statutory duties including promoting awareness of the interests of victims and survivors, reviewing the adequacy and effectiveness of law and practice, reviewing the adequacy of services provided for victims and survivors, providing advice to government and making arrangements for a forum for consultation with victims and survivors.

The findings from this review suggest that a Commission should have a substantial role in supporting Government and Departmental policy objectives in meeting the needs of victims and survivors and assisting the Government in making and implementing well-informed decisions and improving public services relating to victims and survivors. This is particularly so given the Government's 10 year Strategy for Victims and Survivors and the establishment of a new Service for Victims and Survivors.

While, at the time of the review, many stakeholders were critical of the performance of the Commission, most were very clear on the ongoing need for a Commission. In particular, they indicated that a Commission had a clear role to play in providing evidence based and impartial advice to government to support services to victims and survivors and in supporting the effective development of services to victims and survivors.

The role of a Commission in representing victims and survivors issues and in providing a sound evidence base to support policy was broadly viewed to be a justifiable use of taxpayers' money. In the absence of a Commission, many stakeholders considered there would be a gap in terms of input to Government policy for victims and survivors and for services.

Given that there is a clear rationale for a Commission and its services, this means there is no case for abolition of the Commission at this point in time.

It is useful to elaborate on this matter further, particularly given that the Commission at the time of the review has not fully achieved against its three Work Programmes.

Specifically, the rationale for continuation rather than abolition is very clearly focused on the continuing need for a Commission for Victims and Survivors which is effective, but the extent of this continuing need is in part linked to the underperformance of the current Commission. Paradoxically, if the Commission had performed fully against its Work Programmes, and had OFMDFM made greater progress in establishing its new Service for Victims and Survivors, the scale and nature of its activities would be reduced. At the time of the review, substantial needs remain unmet, thereby reinforcing the need for a Commission in the future, but one which needs to perform effectively.

8.3 Requirement for NDPB Status

The next fundamental question is whether the services provided by the Commission need to be delivered by an NDPB.

In answering this question, KPMG have considered the following two key factors:

- Government intervention should only take place where there is clear evidence of market failure.
- An NDPB should only exist where it can be demonstrated that this is the most appropriate and cost-effective means of carrying out the given function.

In considering a requirement for NDPB status, KPMG have examined the viability of alternative delivery options.

As per the Terms of Reference for this review, KPMG have examined the following:

Organisational Options	
Option 1a – Public private partnership	} Private sector
Option 1b - Market test	
Option 1c - Strategic contracting out	
Option 1d – Privatisation / sale	
Option 2a – Merger with another NDPB or agency / rationalisation	
Option 3a – Merge activities into OFMDFM's main services	
Option 3b - Merge activities into DOJ's main services	
Option 4 – Continuation of NDPB status (with improved performance)	

The key considerations against which all options were considered were:

- Commercial viability and feasibility in the private sector
- Ability to provide independent advice
- Impact on current programme delivery and policy challenge
- Responsiveness to government strategic policies
- Value for money.

Option 1		Description	Conclusion and Rationale
a	Public private partnership (PPP)	This would involve delivering objectives through combining the skills, assets and competences of the public and private sectors.	<p>These options have been rejected:</p> <p>Each of these options involves private sector involvement to a greater or lesser degree.</p> <p>The likelihood of private sector interest is likely to be low as there is no commercial rationale for providing the type of services as provided by the Commission.</p> <p>In the unlikely event, a private company would be interested TUPE¹⁴ would possibly apply and the Commission's current staffing structure, the number of Commissioners and terms and conditions are likely to make this very unattractive.</p>
b	Market test	This would entail holding a competition with an in-house team competing against external bidders	
c	Strategic contracting out	This would entail a competition, without an in-house team competing, between external bidders.	
d	Privatisation / sale	This would involve the sale of the Commission and the private sector providing the financial and other resources necessary.	

Option 2		Description	Conclusion and Rationale
Merger with another NDPB		<p>Merging the Commission with another NDPB would involve incorporating the Commission's functions and activities with those of another "rights based" NDPB or agency. These agencies could include:</p> <ul style="list-style-type: none"> ▪ The Equality Commission ▪ Northern Ireland Human Rights Commission 	<p>This option has been rejected.</p> <p>While in some cases these organisations will have interests and objectives which overlap with those of the Commission, their strategic remit and constituent groups are substantially different to that of the Commission, as made clear in the Commission's MOUs with other agencies. Furthermore, the political and historical context in which the Commission operates is seen to have a substantially greater impact on its remit than the remit of</p>

¹⁴ Transfer of Undertakings (Protection of Employment) Regulations (TUPE) i.e. staff currently carrying out the work would transfer to the new employer on their existing terms and conditions.

Option 2	Description	Conclusion and Rationale
	<ul style="list-style-type: none"> Commissioner for Children and Young People for Northern Ireland Commissioner for Older People in Northern Ireland 	other NI “rights focused” agencies.

Option 3a	Description	Conclusion and Rationale
Merge activities into OFMDFM	OFMDFM has policy responsibility for victims and survivors and it could undertake some of the Commission’s tasks such as undertaking research, convening a Forum etc.	<p>This option has been rejected.</p> <p>OFMDFM would need the appropriate staff resources to do so and therefore may not provide substantial cost savings.</p> <p>More importantly, the Commission was set up as an “arms length” body to promote the interests of victims and survivors. This means that it provides advice as well as critical challenge to government. If its tasks were incorporated into OFMDFM, government would face no critical challenge and would not be informed and advised independently.</p>

Option 3b	Description	Conclusion and Rationale
Merge activities into DOJ’s main services	The DOJ has a policy and strategic remit for building a fair, just and safer community in Northern Ireland, playing a key role in taking account of the needs of victims and with issues relating to the legacy of the past.	<p>This option has been rejected for similar reasons as presented for Option 3a in terms of independent advice and critical challenge.</p> <p>However, it is worth highlighting that, in the longer term, there may be merit in some of the activities and functions of the current Commission transferring to DOJ, albeit</p>

Option 3b	Description	Conclusion and Rationale
		<p>these would be in a much reduced form.</p> <p>It is outside the scope of this assignment to comment further but this is something that officials in both DOJ and OFMDFM may wish to explore during the lifetime of the next Commission.</p>

Option 4	Description	Conclusion and Rationale
Continuation of NDPB status	This would involve continuation of NDPB status but with improved performance.	<p>This is the preferred option.</p> <p>The Commission can contribute to OFMDFM's overarching objective of meeting the needs of victims and survivors.</p> <p>The Commission has a clear statutory remit which is substantially different to that of any other agency.</p> <p>As an NDPB, the Commission is able to critically challenge government and inform and advise it on issues affecting victims and survivors as an independent organisation, thus ensuring the needs of victims and survivors are met effectively.</p> <p>However, it is essential that this option incorporates some important changes including:</p> <ul style="list-style-type: none"> - Improvement on corporate planning, monitoring and performance - Rationalisation of the number of Commissioners.

8.4 Recommendations

	Area	Conclusions and Recommendations
1	Need	<p>The review concludes that there is a clear need for the Commission for Victims and Survivors at the time of the review.</p> <p>At a political level, there is a need for independent advice to government on issues affecting victims and survivors. The Commission has a clear remit in providing evidence based independent research and advice to government to help determine strategy and policy. At a policy level, the Commission has a clear purpose in helping to influence and shape the development of the new Service to Victims and Survivors.</p> <p>However, it is envisaged that the lifespan of the Commission could be time-bound, on the basis that the cumulative impact of its work will culminate in making a substantial positive difference, especially in shaping the new Service, and that it will have used its statutory authority to improve coherence among individuals and groups of/victims and survivors and best use of resources. There may therefore be no requirement for a specific Commission for Victims and Survivors in the longer term.</p> <p>The lack of progress on its Work Programmes at the time of the review makes it difficult to give an exact indication of an end point for the Commission, but KPMG's best estimation is that this should be in approximately three years time. This is based on an assumption that the new Service will be well established and that the Commission's performance improves.</p> <p>Therefore, KPMG recommend the continuation of the Commission for a further three years with a formal review (to commence in year 2). This review will need to critically assess the performance of the Commission and assess the requirement for its continuation.</p> <p>OFMDFM may wish to consider if there are any implications of this regarding existing legislation for the establishment of the Commission and the appointment term for a Commissioner(s). In addition, these recommendations will require minor amendments to the MSFM e.g. regarding the appointment period and removing reference to being renewable once.</p> <p>Furthermore, at this juncture, KPMG recommend that an aspect of the review then examines the feasibility of the functions and activities of the Commission merging with DOJ's main services.</p>

	Area	Conclusions and Recommendations
2	Number of Commissioners	<p>The review concludes that the number of Commissioners, with each as equals, has presented considerable and practical challenges which has ultimately impacted negatively on the overall performance of the Commission and therefore has not presented value for money.</p> <p>A range of views was expressed on the appropriate number of Commissioners.</p> <p>KPMG considered the number of required Commissioners. It is clear that having four Commissioners has not worked effectively. Anecdotal evidence indicates that the (temporary) arrangement of two Commissioners is working reasonably well, and some stakeholders suggested that two Commissioners would have a greater chance of cross community support, while some suggested the complexity and size of the tasks required two Commissioners. However, the most vocal view presented by stakeholders was for one Commissioner.</p> <p>KPMG's view is that one Commissioner presents the greatest clarity in terms of strategic accountability and responsibility, and, in a challenging fiscal climate, offers value for money.</p> <p>On the basis of the strategic remit of the Commission, feedback from stakeholders, the fiscal climate and increased need to demonstrate value for money, KPMG recommend that a sole Commissioner is appointed for the next term of the Commission and that this appointment is for a three-year term. Any renewable arrangement would be subject to a future requirement for a Commission, a satisfactory performance review and the Commission's delivery of its Corporate Plans/Work Programmes. [The existing legislation allows for the Commission to consist of such members as are appointed by the First Minister and deputy First Minister acting jointly. Therefore, this recommendation would not require any change in legislation].</p> <p>The appointment process should be based on the Code of Practice for Ministerial Public Appointments in Northern Ireland¹⁵ (Commissioner for Public Appointments in Northern Ireland). Any renewable arrangement would be subject to this Code of Practice.</p> <p>Any change i.e. reduction in the number of Commissioners may require the recruitment of additional Non-Executive Directors to ensure that the Board has the appropriate balance of skills, experience, independence and knowledge; that it is of sufficient size that the requirements of the Commission can be</p>

¹⁵ http://www.publicappointmentsni.org/code_of_practice_-_11.05.11.pdf

	Area	Conclusions and Recommendations
		<p>met and that changes to its composition can be managed without undue disruption, and should not be so large as to be unwieldy.</p> <p>However, KPMG recognise that the appointment of a Commissioner(s) will be a decision for Ministers and subject to Ministers' agreement and they will need to consider the broader context and the sensitivities involved as well as the need for a Commissioner to be perceived to be inclusive and representative.</p>
3	Legal Status	<p>The Commission was originally established as a corporate sole, becoming a body corporate on the appointment of four equal Commissioners.</p> <p>OFMDFM should seek legal advice on the need for a change in the Commission's legal status if recommendation 2 is accepted.</p>
4	Governance and Reporting	<p>Board Make-up</p> <p>KPMG suggest that the current arrangements of a Board and the Secretary as AO should not change [even in the event of one Commissioner]. This current Board structure supports strong governance through the clear division of responsibilities between the collective running of the board and the executive responsibility for the running of the Commission's activities on a day-to-day basis, with no one individual having unfettered powers.</p> <p>Board Composition</p> <p>KPMG recommend that current governance arrangements in respect of the Board should be strengthened by the appointment of a Non-Executive Director and KPMG recommend that the recruitment specification emphasises governance skills, specifically strategic business planning skills (not sectoral knowledge), to ensure an appropriate and balanced skill mix and to enable the Board to satisfactorily discharge its corporate responsibilities.</p> <p>KPMG note that it is positive that the Commission has recognised this issue and KPMG support the business case / request to recruit a Non-Executive Director. KPMG recommend that the Commission progresses with this appointment as a priority. KPMG also recommend, as per the business case, that this post is subject to a formal and evidence based performance review each appointed year.</p>

	Area	Conclusions and Recommendations
		<p>Role Clarity</p> <p>The current role and responsibilities of the Commission, Department and Ministers are clearly laid out in the MSFM, and provide guidance on operational and policy work. However, KPMG recommend the development of PDAs/PDPs linked to the PSfG competency framework to help further clarify the role and responsibilities of Commissioners, and clarify their operational responsibilities. These should be developed as a priority for this new financial year and subsequently should form part of the evidence for the performance review process.</p> <p>KPMG recommend the development of a Code of Conduct for the Commissioners, defining the standards of personal behaviour, to which they are required to subscribe.</p> <p>Training</p> <p>KPMG recommend that a skills audit is conducted with the Board to identify training needs in relation to good governance and corporate and business planning within a public sector context and that appropriate training is put in place.</p>
5	Performance	<p>KPMG consider that the current aims of the Commission, based on its six statutory duties, are appropriate to help the Commission play a part in delivering wider Departmental or Government objectives. However, there is scope for the Commission to improve on its business planning with a greater focus on the outcomes to be delivered and their impact. It is essential that the Commission improves on its current performance and this is demonstrated through delivery of its corporate plans / Work Programmes.</p> <p>This will require the following:</p> <ul style="list-style-type: none"> - Development of robust and realistic plans, with activities accurately scoped and taking account of the staffing resource. Aims should be expressed as SMART aims i.e. Specific, Measurable, Achievable, Realistic and Time-bound which would help further in terms of scoping and identifying required resources. - Ensuring that strategic aims ultimately reflect how it will make a difference and how it will use its statutory authority to improve coherence among individuals and groups of/for victims and survivors and best use of resources. This should help the Commission to be more focused and targeted on

	Area	Conclusions and Recommendations
		<p>strategic changes and improvements, and to help prioritise its work and utilisation of resources.</p> <ul style="list-style-type: none"> – Timely delivery of all plans for approval to Ministers, and similarly, timely approval from Ministers – Appropriate and effective use of financial controls including improved financial planning and budgeting and monitoring of financial performance – Detailed monitoring of progress against plan and accurate reporting – both financial and performance reporting – Consistently robust and timely scrutiny from OFMDFM. <p>Previous recommendations regarding the appointment of a Non-Executive Director and a skills audit and appropriate training will help in this regard.</p> <p>KPMG recommend that performance reviews are completed in a timely manner and are evidence based. Furthermore, KPMG recommend that the Department revisits performance reporting arrangements and considers alternative reporting lines for Commissioners within OFMDFM.</p>
6	Responsiveness to stakeholders	<p>KPMG recommend that the Commission develops detailed and comprehensive stakeholder and communication plans, with clear performance indicators.</p> <p>These should set out a consistent approach to stakeholder engagement. They should be reviewed to ensure their effectiveness.</p>
7	MOUs	<p>There are clear Memoranda of Understanding for a range of organisations, but the absence of MoUs with the following bodies is a gap: CRC; NIMF; SEUPB; TAPS.</p> <p>However, given the planned changes, it is recommended that MoUs should be drawn up with SEUPB and the Victims and Survivors Service when established.</p>
8	Future Recruitment	<p>KPMG recommend that OFMDFM revisits the skills set and requirements for Commissioners in any subsequent recruitment process to ensure an appropriate balance between corporate business planning skills and sectoral expertise and knowledge.</p>



This report has been prepared on the basis set out in our Project Initiation Document dated January 2011 and should be read in conjunction with this.

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